

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2021

COUNCIL BILL NO. CB21-0217
COMMITTEE OF REFERENCE:
Finance & Governance

A BILL

For an ordinance amending the alcohol beverages and retail marijuana chapter of the Denver Revised Municipal Code to allow for the licensing and operation of marijuana hospitality businesses and retail marijuana hospitality and sales businesses within the City.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Article V of Chapter 6 shall be amended by adding the language underlined and striking the language stricken to read as follows:

Sec. 6-204. – Defined terms.

Except as provided below, the definitions set forth in subsection 16(2) of article XVIII of the Colorado Constitution and the definitions set forth in the Colorado Marijuana Code, shall apply equally to this article V. In addition, the following terms shall have the meanings respectively assigned to them:

(21) Smoking shall have the same meaning as set forth in 25-14-203, C.R.S., as amended.

(224) Social equity applicant means a person who meets the following criteria:

(232) Statistical neighborhood means the geographical neighborhood boundaries established by the City and County of Denver in 1970 in conjunction with the Community Renewal Program.

Sec. 6-205. – License or permit required; classes of licenses authorized.

(b) Classes of licenses authorized. For the purpose of regulating the cultivation, manufacture, research and development, testing, transportation, storage, sale or distribution, offering for sale, ~~and~~ delivery, and consumption of medical or retail marijuana, the director may issue a local license or permit of any of the following classes, subject to the provisions and restrictions provided in this article V and the Colorado Marijuana Code:

- (1) Medical marijuana store license;
- (2) Medical marijuana delivery permit;
- (3) Medical marijuana cultivation facility license;
- (4) Medical marijuana products manufacturer license;

- 1 (5) Medical marijuana testing facility license;
- 2 (6) Medical marijuana transporter license;
- 3 (7) Medical marijuana off-premises storage facility permit;
- 4 (8) Marijuana research and development license;
- 5 (9) Retail marijuana store license;
- 6 (10) Retail marijuana delivery permit;
- 7 (11) Retail marijuana cultivation facility license;
- 8 (12) Retail marijuana products manufacturer license;
- 9 (13) Retail marijuana testing facility license;
- 10 (14) Retail marijuana transporter license; and
- 11 (15) Retail marijuana off-premises storage facility permit;
- 12 (16) Marijuana hospitality business license; and
- 13 (17) Retail marijuana hospitality and sales business license.

14 **Sec. 6-217. – Reserved Marijuana hospitality business license.**

15 (a) *Marijuana hospitality businesses—authorized.* Beginning July 1, 2021, a local marijuana
16 hospitality business license may be issued to allow for the on-premises consumption of marijuana
17 at either a fixed location or mobile premises, subject to the provisions of this article V and the
18 Colorado Marijuana Code.

19 (b) *Licensing requirements—all locations.* In addition to the provisions applicable to all
20 licenses, all marijuana hospitality business licensees shall comply with the following provisions:

21 (1) A marijuana hospitality business licensee shall not permit the use or consumption
22 of regulated marijuana between the hours of 2:00 a.m. and 7:00 a.m. daily.

23 (2) A marijuana hospitality business licensee shall not sell, transfer, or distribute, with
24 or without remuneration, or allow the sale, transfer, or distribution, with or without remuneration, of
25 marijuana, marijuana concentrate, or marijuana products on the licensed premises.

26 (3) A marijuana hospitality business licensee shall not engage in or allow any activity
27 that would require an additional license under this article, including but not limited to planting,
28 growing, harvesting, storing, drying, trimming, processing or manufacturing marijuana, marijuana
29 concentrate, or marijuana products on the licensed premises. Nothing in this subsection prohibits a
30 marijuana hospitality business from storing marijuana consumer waste on the licensed premises, in
31 compliance with state law.

32 (4) A marijuana hospitality business licensee shall not allow any person to consume
33 or display marijuana, marijuana concentrate, or marijuana products outside of a consumption area

1 or any place that is visible from outside of the consumption area.

2 (5) A marijuana hospitality business may allow smoking of marijuana in indoor and
3 outdoor portions of the licensed premises. Marijuana smoking indoors and outdoors must occur in
4 compliance with an Odor Control Plan filed pursuant to section 4-10 of this Code, and approved by
5 the department of public health and environment.

6 (6) A marijuana hospitality business licensee shall ensure that all areas of ingress and
7 egress to the consumption areas are clearly identified and posted with signs and warnings required
8 by state law or the department.

9 (7) A marijuana hospitality business licensee shall not allow on-duty employees of the
10 business to consume any marijuana, marijuana concentrate, or marijuana product on the licensed
11 premises.

12 (8) A marijuana hospitality business licensee shall not allow the consumption of
13 alcohol or smoking of tobacco or tobacco products on the licensed premises.

14 (9) A marijuana hospitality business licensee shall not allow any person under the age
15 of twenty-one (21) on the licensed premises. Government-issued identification must be required
16 from all patrons before the patron is allowed access into the licensed premises.

17 (10) A marijuana hospitality business licensee shall not permit the use or consumption
18 of marijuana, marijuana concentrate, or marijuana product by a patron who displays any visible
19 signs of intoxication.

20 (11) If an emergency requires law enforcement, firefighters, emergency medical
21 service providers, or other public safety personnel to enter a marijuana hospitality business, a
22 marijuana hospitality business licensee shall ensure that all employees and patrons of the business
23 cease all consumption and other activities until such personnel have completed their investigation
24 or services and have left the licensed premises.

25 (c) *Licensing requirements—mobile premises.* In addition to the requirements for all
26 marijuana hospitality businesses identified in subsection (b), marijuana hospitality businesses on
27 mobile premises shall comply with the following provisions:

28 (1) A mobile marijuana hospitality business licensee shall not permit the consumption
29 of marijuana on the moibile premises if the mobile premises is stopped, standing, or parked for more
30 than 30 minutes.

31 (2) A mobile marijuana hospitality business shall file a route log with the department
32 identifying the origin and destination of all routes, and all stops in between the origin and the
33 destination, at least seven (7) business days prior to the scheduled departure. A marijuana

1 hospitality business shall not change or deviate from the route log without notifying the department
2 at least seven (7) business days prior to scheduled departure. Identified origins, destinations, and
3 stops may not include any of the following locations:

4 a. Schools;

5 b. Child care establishments;

6 c. Alcohol or drug treatment facilities; or

7 d. City-owned recreation centers and pools.

8 (3) A mobile marijuana hospitality business shall make the route log available to any
9 city inspector or police officer upon request.

10 (4) A mobile marijuana hospitality business shall ensure that the motor vehicle has no
11 external markings, words, or symbols that constitute advertising as defined in section 6-204(1).

12 (d) Proximity restrictions. No marijuana hospitality business license shall be issued if the
13 proposed location is within 1,000 feet of one of more of the following locations:

14 (1) Any school, with the distance computed by direct measurement in a straight line
15 from the nearest legal parcel line of the land used for the school to the nearest external portion of
16 the building in which the marijuana hospitality business is proposed to be located.

17 (2) Any child care establishment, with the distance computed by direct measurement
18 in a straight line from the nearest legal parcel line of the land used for the child care establishment
19 to the nearest external portion of the building in which the marijuana hospitality business is proposed
20 to be located.

21 (3) Any other marijuana hospitality business licensed pursuant to this article V, with
22 the distance computed by direct measurement in a straight line from the nearest external portion of
23 the building within which one (1) marijuana hospitality business is located to the nearest external
24 portion of the building in which the other marijuana hospitality business is proposed to be located.
25 In the event that the department receives two or more applications for a marijuana hospitality
26 business with proposed locations within one thousand (1,000) feet of each other, the director shall
27 act upon only the first complete application received and shall not issue a license to all subsequent
28 applications.

29 (4) Any alcohol or drug treatment facility, with the distance computed by direct
30 measurement in a straight line from the nearest external portion of the building in which the alcohol
31 or drug treatment facility is located to the nearest external portion of the building in which the
32 marijuana hospitality business is proposed to be located.

33 (5) Any city-owned recreation center, with the distance computed by direct

1 measurement in a straight line from the nearest external portion of the building in which the
2 recreation center is located to the nearest external portion of the building in which the marijuana
3 hospitality business is proposed to be located.

4 (6) Any city-owned outdoor pool, with the distance computed by direct measurement
5 in a straight line from the fence or barrier of the outdoor pool to the nearest external portion of the
6 building in which the marijuana hospitality business is located.

7 (7) The proximity restrictions identified in this subsection (d) shall not apply to the
8 mobile premises of a marijuana hospitality business.

9 (e) Location restrictions. No marijuana hospitality business license shall be issued at one or
10 more of the following locations:

11 (1) The licensed premises of another medical or retail marijuana business license. The
12 marijuana hospitality business and other marijuana business shall provide separate ingress and
13 egress to each licensed premises.

14 (2) The licensed premises of any business containing a business licensed pursuant to
15 Articles 3, 4, or 5 of Title 44 of the Colorado Revised Statutes. The marijuana hospitality business
16 and other marijuana business shall provide separate ingress and egress to each licensed premises,
17 and shall comply with all state laws.

18 (3) Any location deemed public property and owned by the City.

19 (4) Any location that is situated in a residential zone district as defined by the Denver
20 Zoning Code or Former Chapter 59.

21 (5) The location restrictions identified in this subsection (e) shall not apply to the mobile
22 premises of a marijuana hospitality business.

23 (f) Public hearing—required. A public hearing in compliance with section 6-209 shall be
24 required prior to the issuance of a marijuana hospitality business license at a fixed location, but shall
25 not be required for an application proposing to operate a marijuana hospitality business solely on a
26 mobile premises. The requirements for public notice, posting, publication, conduct, results of
27 investigation, and decision of the director shall be the same as those for medical and retail marijuana
28 stores.

29 **Sec. 6-218. – Reserved Retail marijuana hospitality and sales business license.**

30 (a) Licensing requirements. Beginning July 1, 2021, a local retail marijuana hospitality and
31 sales business license may be issued to allow for the sale and on-premises consumption of
32 regulated marijuana at a fixed location, subject to the provisions of this article V and the Colorado
33 Marijuana Code. In addition to the provisions applicable to all licenses, all retail marijuana hospitality

1 and sales business licensees shall comply with the following provisions:

2 (1) A retail marijuana hospitality and sales business licensee shall not permit the sale,
3 transfer, distribution, use, or consumption of regulated marijuana between the hours of 2:00 a.m.
4 and 7:00 a.m. daily.

5 (2) A retail marijuana hospitality and sales business licensee shall not engage in or
6 allow any activity that would require an additional license under this article, including but not limited
7 to planting, growing, harvesting, drying, trimming, processing or manufacturing marijuana,
8 marijuana concentrate, or marijuana product on the licensed premises.

9 (3) A retail marijuana hospitality and sales business licensee shall not allow any
10 person to consume or display marijuana, marijuana concentrate, or marijuana product outside of a
11 consumption area or any place that is visible from outside of the consumption area.

12 (4) A retail marijuana hospitality and sales business licensee may allow smoking of
13 regulated marijuana in indoor and outdoor portions of the licensed premises. Marijuana smoking
14 indoors and outdoors must occur in compliance with an Odor Control Plan filed pursuant to section
15 4-10 of this Code and approved by the department of public health and environment.

16 (5) A retail marijuana hospitality and sales business licensee shall ensure that all
17 areas of ingress and egress to the consumption areas are clearly identified and posted with signs
18 and warnings required by state law.

19 (6) A retail marijuana hospitality and sales business licensee shall not allow on-duty
20 employees of the business to consume any marijuana, marijuana concentrate, or marijuana product
21 within the licensed premises of the business.

22 (7) A retail marijuana hospitality and sales business licensee shall not allow the
23 consumption of alcohol or smoking of tobacco or tobacco products on the licensed premises.

24 (8) A retail marijuana hospitality and sales business licensee shall not allow any
25 person under the age of twenty-one (21) into the licensed premises. Government-issued
26 identification must be required from all patrons before the patron is allowed access into the licensed
27 premises.

28 (9) A retail marijuana hospitality and sales business licensee shall not permit the use
29 or consumption of marijuana, marijuana product, or marijuana concentrate by a patron who displays
30 any visible signs of intoxication.

31 (10) A retail marijuana hospitality and sales business licensee shall not transfer, sell,
32 or otherwise distribute more regulated marijuana in a single transaction to a consumer than the
33 lawful amounts related to possession and sale set forth in state law. A single transaction includes

1 multiple transfers, sales, or distributions to the same consumer during the same business day where
2 the medical or retail marijuana store employee knows or reasonably should know that such transfer,
3 sale, or distribution would result in that consumer possessing or being sold more than the amounts
4 set forth in state law.

5 (11) If an emergency requires law enforcement, firefighters, emergency medical
6 service providers, or other public safety personnel to enter a retail marijuana hospitality and sales
7 business, a retail marijuana hospitality and sales business licensee shall ensure that all employees
8 and patrons of the business cease all consumption and other activities until such personnel have
9 completed their investigation or services and have left the licensed premises.

10 (12) Beginning January 1, 2022, retail marijuana hospitality and sales business
11 licensees shall install and use a safe in a limited access area, which shall be incorporated into the
12 building structure or securely attached thereto, for overnight storage of all processed cannabis and
13 cash. For marijuana-infused products that must be kept refrigerated or frozen, the establishment
14 may lock the refrigerated container or freezer, so long as the appliance is affixed to the building
15 structure. Alternatively, a business may utilize security devices such as vaults, strong rooms or other
16 security features that are functionally equivalent to a safe as determined by Department rule.

17 (b) Proximity restrictions. No retail marijuana hospitality and sales business license shall be
18 issued if the proposed location is within 1,000 feet of one of more of the following locations:

19 (1) Any school, with the distance computed by direct measurement in a straight line
20 from the nearest legal parcel line of the land used for the school to the nearest external portion of
21 the building in which the retail marijuana hospitality and sales business is proposed to be located.

22 (2) Any child care establishment, with the distance computed by direct measurement
23 in a straight line from the nearest legal parcel line of the land used for the child care establishment
24 to the nearest external portion of the building in which the retail marijuana hospitality and sales
25 business is proposed to be located.

26 (3) Any other retail marijuana hospitality and sales business licensed pursuant to this
27 article V, with the distance computed by direct measurement in a straight line from the nearest
28 external portion of the building within which one (1) retail marijuana hospitality and sales business
29 is located to the nearest external portion of the building in which the other retail marijuana hospitality
30 and sales business is proposed to be located. In the event that the department receives two or more
31 applications for a retail marijuana hospitality and sales business with proposed locations within one
32 thousand (1,000) feet of each other, the director shall act upon only the first complete application
33 received and shall not issue a license to all subsequent applications.

1 (4) Any alcohol or drug treatment facility, with the distance computed by direct
2 measurement in a straight line from the nearest external portion of the building in which the alcohol
3 or drug treatment facility is located to the nearest external portion of the building in which the retail
4 marijuana hospitality and sales business is proposed to be located.

5 (5) Any city-owned recreation center, with the distance computed by direct
6 measurement in a straight line from the nearest external portion of the building in which the
7 recreation center is located to the nearest external portion of the building in which the retail marijuana
8 hospitality and sales business is proposed to be located.

9 (6) Any city-owned outdoor pool, with the distance computed by direct measurement
10 in a straight line from the fence or barrier of the outdoor pool to the nearest external portion of the
11 building in which the retail marijuana hospitality and sales business is located.

12 (c) Location restrictions. No retail marijuana hospitality and sales business license shall be
13 issued at one or more of the following locations:

14 (1) Any location containing a medical or retail marijuana store license.

15 (2) The licensed premises of another medical or retail marijuana business license. The
16 marijuana hospitality business and other marijuana business shall provide separate ingress and
17 egress to each licensed premises.

18 (3) The licensed premises of any business containing a business licensed pursuant to
19 Articles 3, 4, or 5 of Title 44 of the Colorado Revised Statutes. The marijuana hospitality business
20 and other marijuana business shall provide a separate ingress and egress to each licensed
21 premises and shall comply with all state laws.

22 (4) Any location deemed public property and owned by the City.

23 (5) Any location that is situated in a residential zone district as defined by the Denver
24 Zoning Code or Former Chapter 59.

25 (d) Public hearing—required. A public hearing in compliance with section 6-209 shall be
26 required prior to the issuance of a retail marijuana hospitality business and sales license. The
27 requirements for public notice, posting, publication, conduct, results of investigation, and decision
28 of the director shall be the same as those for medical and retail marijuana stores.

29 **Sec. 6-222. - Term of licenses; renewals.**

30 (b) Cease operations—required. Except where the director has received a complete renewal
31 application along with the requisite fees, it shall be unlawful for any person to manufacture, test,
32 consume, receive orders for, sell, distribute, transfer, transport, or otherwise remove cannabis from
33 the licensed premises of a medical or retail marijuana business, or allow any other person to perform

1 these acts, after the expiration date recorded upon the face of any local license issued pursuant to
2 this article V for that location.

3 **Sec. 6-223. - Causes for denial.**

4 (a) In addition to the grounds set forth in the Colorado Marijuana Code and chapter 32 of this
5 Code, any application submitted pursuant to this article V, shall be denied if:

6 (2) The applicant or licensee fails to prove by a preponderance of the evidence that
7 the reasonable requirements of the neighborhood and the desires of the adult inhabitants therein
8 support the issuance of a medical or retail marijuana store license, marijuana hospitality business
9 license, or retail marijuana hospitality and sales business license;

10

11 **Section 2.** Article II of Chapter 4 shall be amended by deleting the words stricken and adding
12 the language underlined to read as follows:

13 **Sec. 4-10. - Nuisance.**

14 (a) To prevent and control nuisance odors, an odor control plan shall be submitted to the
15 Manager describing the odor(s), if any, originating or anticipated to originate at the premises and
16 the control technologies to be used to prevent such odor(s) from leaving the premises in any of the
17 following occur:

18 (3) If any person engages in one (1) or more of the following activities:

- 19 a. Pet food manufacturing;
- 20 b. Marijuana growing, processing, ~~or~~ manufacturing, or consumption, as
21 provided in Chapter 6;
- 22 c. Rendering and meat byproduct processing;
- 23 d. Asphalt shingle and coating materials manufacturing;
- 24 e. Petroleum refining;
- 25 f. Sewage treatment;
- 26 g. Wood preservation;
- 27 h. Any other activity determined by the board through a rulemaking to cause,
28 or be likely to cause, nuisance odors.

29

30 **Section 3.** Article II of Chapter 33 shall be amended by deleting the words stricken and
31 adding the language underlined to read as follows:

32 (b) Application and license fees for retail marijuana businesses, retail marijuana off-premises
33 storage facilities, and retail marijuana delivery permits shall be as follows:

1 (1) Application fee for marijuana hospitality business and retail marijuana hospitality
2 and sales business:

3 a. Social equity licensees \$0.

4 b. Non-social equity licensees 1,000.00.

5 (24) Application fee for retail marijuana off-premises storage facility:.

6 a. Social equity licensees \$0.

7 b. Non-social equity licensees 500.00.

8 (32) Annual license fee for retail marijuana businesses:

9 a. Social equity licensees\$1,500.00.

10 b. Non-social equity licensees3,000.00.

11 (4) Annual license fee for marijuana hospitality business and retail marijuana
12 hospitality and sales business\$2,000.00.

13 (53) Annual license fee for retail marijuana off-premises storage facility:

14 a. Social equity licensees\$1,500.00.

15 b. Non-social equity licensees3,000.00.

16 (64) Criminal background check feeactual costs.

17 (75) Transfer of ownership fee\$250.00, plus actual cost of background check.

18 (86) Change of location fees:

19 a. Retail marijuana stores, marijuana hospitality businesses, and retail
20 marijuana hospitality and sales businesses\$1,500.00.

21 b. All other retail marijuana business licenses1,000.00.

22 (97) Modification of premises\$300.00.

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1 COMMITTEE APPROVAL DATE: March 16, 2021
2 MAYOR-COUNCIL DATE: March 23, 2021 by Consent
3 PASSED BY THE COUNCIL: April 19, 2021

4 Stacie Filmore - PRESIDENT

5 APPROVED: [Signature] - MAYOR Apr 23, 2021

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;

10 PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: April 8, 2021

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kristin Bronson, Denver City Attorney

16 BY: Jonathan Griffin, Assistant City Attorney DATE: Apr 8, 2021

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