

Marijuana Legislation

Excise and Licenses
Office of Marijuana Policy

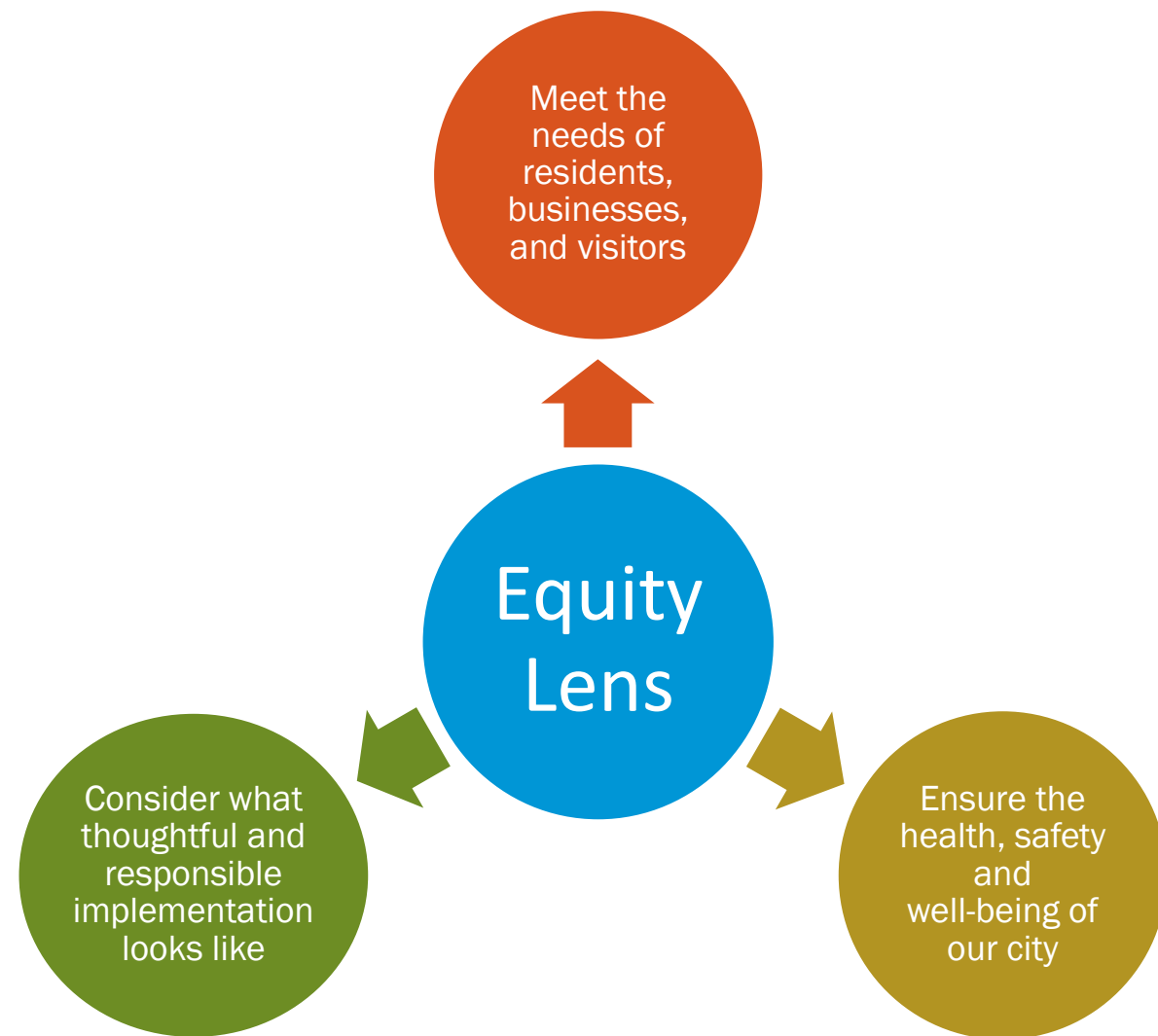
Stakeholder Feedback Sessions
December 2020

Why are we here today?

- To preview a package of comprehensive **legislative changes** to the City's Marijuana Ordinances that the Department will be proposing and presenting to City Council
- To provide continued opportunity for **community participation** by seeking **public feedback** on the DRAFT ordinance language

Goals for Implementation

- **Adhere to Denver's values around equity and social justice** by decreasing barriers to entry and participation in the cannabis industry and exploring financial, technical, and criminal justice support
- **Provide new ownership opportunities** for innovation, expansion, and creativity for entrepreneurs
- **Identify new consumer opportunities** for access and responsible use for adults over 21
- **Maintain strong protections** in place for youth and neighborhoods
- **Continue community investment** through marijuana tax dollars to help people who were harmed by marijuana prohibition or by historic inequities and marginalized communities in general



Executive Summary

Social Equity

- Alignment with state criteria for **Social Equity Applicant definition**
- Replace the Location Cap and Lottery requirements with license exclusivity for Social Equity Applicants for stores and cultivation facilities for **6 years**
- License exclusivity for Social Equity Applicants for Manufactures, Transporters, and Hospitality Establishments for **6 years**
- **Reduced fees** for Social Equity Applicants who apply for existing license types
- **Programmatic and Funding support** will be developed during implementation phase of legislation

Delivery

- **Opt-in** to allow delivery of marijuana to private residences
- Align with state laws & rules as much as possible with a few **additional safety and youth protections added**
- Exclusivity for Social Equity Transporters to conduct delivery for **3 years**

Hospitality

- **Replace current cannabis consumption license with the more robust Hospitality program** offered through the state, including allowing for small sales at Hospitality & Sales locations and tour bus operations through Mobile Hospitality licenses
- **Maintain current proximity restrictions** set up for Designated Consumption Areas licenses
- Align with state laws & rules as much as possible, including opting in to the **exemption from the Colorado Clean Indoor Act** for the smoking & vaping of marijuana indoors

Legislation Summary

	Bill	Topic	Details
1	Omnibus Bill	<ul style="list-style-type: none"> • Social Equity • Changes to existing licenses • Marijuana Delivery 	<ul style="list-style-type: none"> • Revises Denver’s Marijuana Code provisions using an equity lens and creates opportunities for Social Equity Applicants • Aligns Denver’s Marijuana Code provisions with the Colorado Marijuana Code and state rules • Modifies distribution of existing store and cultivation licenses by removing the location cap and location lottery requirements • Creates a Denver Marijuana Delivery Program
2	Bill to Enact Marijuana Hospitality Program	<ul style="list-style-type: none"> • Marijuana Consumption 	<ul style="list-style-type: none"> • Creates a Denver Marijuana Hospitality Program to allow for lawful marijuana consumption establishments
3	Bill to Repeal Cannabis Consumption Pilot Program	<ul style="list-style-type: none"> • Marijuana Consumption • Cleanup 	<ul style="list-style-type: none"> • Repeals citizen-initiated consumption establishment ordinance after enactment of a Denver Marijuana Hospitality Program

Denver Marijuana Policy Timeline

2010 – Medical MJ

- EXL began licensing **medical** marijuana businesses in Denver

2016 – Denver Cap and Lottery

- On 5/1/16, City Council established a permanent **moratorium** on certain **medical** marijuana businesses and a **city-wide cap** on certain **retail** marijuana businesses

2019 – State Law Changes

- Several changes were made to state laws, including the **restructuring** of the state marijuana codes and the authorization of **new license types** (delivery, hospitality, accelerator)

2021 – Denver Code Update

- EXL will propose a package of bills designed to establish an **equity licensing program**, **align our code** with state law, and authorize local **delivery** permits and **hospitality** licenses

2014 – Retail MJ

- EXL began licensing **retail** marijuana businesses in Denver
- This included a **transition phase** allowing previously existing medical businesses to add/convert to retail

2018 – Equity

- Mayor Hancock **attended US Conference of Mayors** and directed the Office of Marijuana Policy to develop a plan to address equity within the cannabis industry

2020 – Evolution

- EXL **calculated and published** city-wide caps in accordance with D.R.M.C.
- City Council postponed the **lottery** for distribution of capped licenses until 2021 to allow for development of an equity program

Stakeholder Outreach and Legislative Preparation

Outreach, Research and Planning

- Held informal stakeholder outreach sessions in 2019 with the Cannabis Community Equity Committee and dozens of individual meetings with stakeholders and interested parties.
- Compared and monitored equity programs launched in other cities and states.
- Organized and participated in panel discussions and inter-jurisdiction meetings at the [Denver Marijuana Management Symposium](#), Marijuana Enforcement Division Rulemaking Workgroups, the [Black Cannabis Equity Initiative](#), podcasts, etc.

Cannabis Business and Opportunity Study

- Conducted in 2019, this study included:
 - ✓ Key informant interviews with 23 business leaders, industry employees and owners, social justice advocates, city and state staff and related associations,
 - ✓ 3 stakeholder sessions with approximately 35 participants
 - ✓ 2 public forums with approximately 100 participants
 - ✓ Online survey with 316 respondents
 - ✓ Additional research to review equity programs in other jurisdictions, analyze cannabis market conditions, and secondary datasets

Marijuana Licensing Work Group

- This diverse Work Group met 5 times in 2020 and was made up of social equity experts, Denver lawmakers, city and state regulatory agency representatives, law enforcement, marijuana stakeholder and home delivery industry representatives
- Each meeting included an opportunity for both public and written comment.
- All meetings were recorded and [posted publicly](#).



Omnibus Bill

What does this bill do?

Focuses on Equity

- Revises Denver's Marijuana Code provisions using an Equity Lens and creates opportunities for Social Equity Applicants

Aligns Denver with State

- Aligns Denver's Marijuana Code provisions with the Colorado Marijuana Code and state rules in format and content where possible

Reimagines License Distribution

- Replaces the Location Cap and Location Lottery requirements with licensing exclusivity for Social Equity Applicants

Authorizes Marijuana Delivery

- Creates a Denver Marijuana Delivery Program with exclusive opportunities for Social Equity Applicants

The Focus on Equity in Marijuana Regulation

Yesterday's Public Policy

- The “War on Drugs”
 - 1970: The **Controlled Substance Act** outlawed cannabis and other drugs in the U.S.
 - 1971: President Nixon declared drug abuse “public enemy number one.”
 - 1986: **The Anti-Drug Abuse Act** allocated \$1.7 billion to drug law enforcement and established mandatory minimums in drug offense sentencing.

Compounding Negative Impacts

- Criminal justice data and research since the 70’s have shown:
 - Arrests and convictions for drug offenses have **overwhelmingly negative impacts** on a person’s economic, educational, and health-related opportunities.
 - Drug policies have been enforced in a **discriminatory manner**.
 - Negative impacts of drug law enforcement **disproportionately impact** distinct communities.

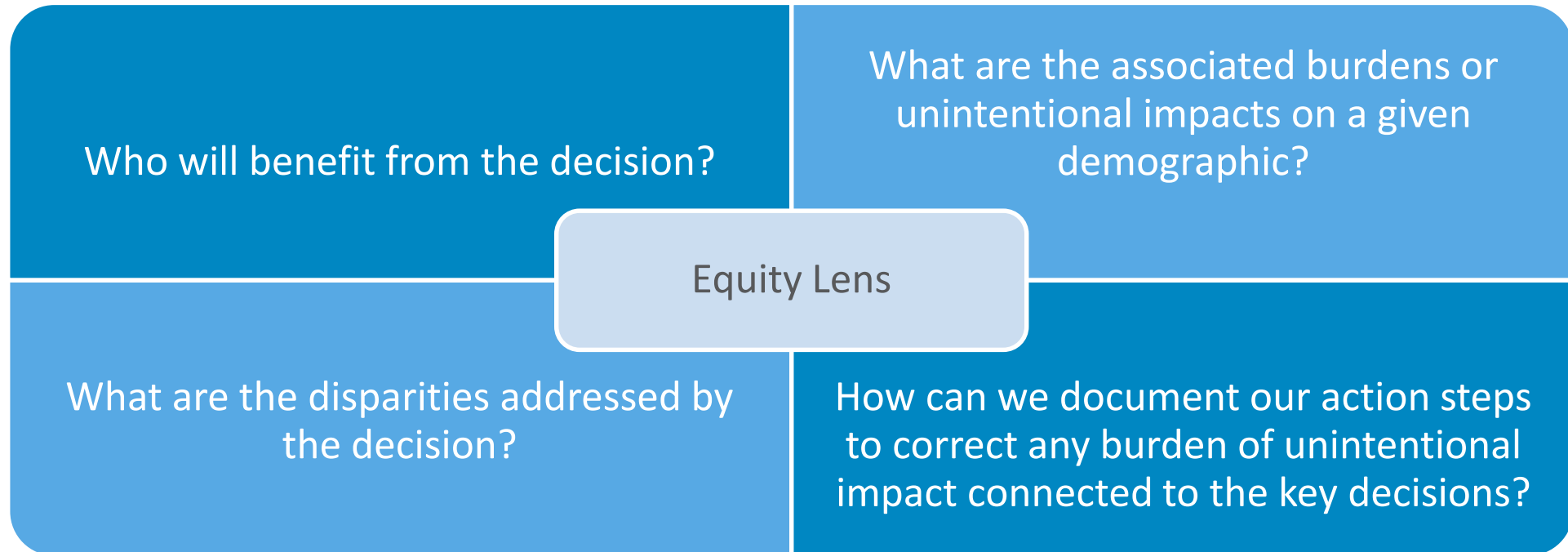
Goals for Equitable Regulation

- Provide opportunities to individuals who have been **harmed by marijuana prohibition or by historical inequities**; and
- Lay the foundation **for equitable wealth creation**

Marijuana Policy: The impact of early regulations on equity



Creating Policy using an Equity Lens



Denver's Equity Program



Who qualifies as a Social Equity Applicant?

(Denver's bill adopts the same definition as [the state of Colorado](#))

A “Social Equity Applicant” would be a Colorado resident who, individually or together with other Social Equity Licensees:

- Owns at least 51% of a marijuana business licenses,
- Has not been subjected to a legal or disciplinary action by the State Licensing Authority against their license resulting in revocation, and
- Demonstrates **one** of the following:

Resided 15+ years, from 1980 to 2010 in an opportunity zone or Disproportionate Impacted Area, which is defined as 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 applicant or immediate family was arrested, convicted or suffered civil asset forfeiture due to a marijuana offense.

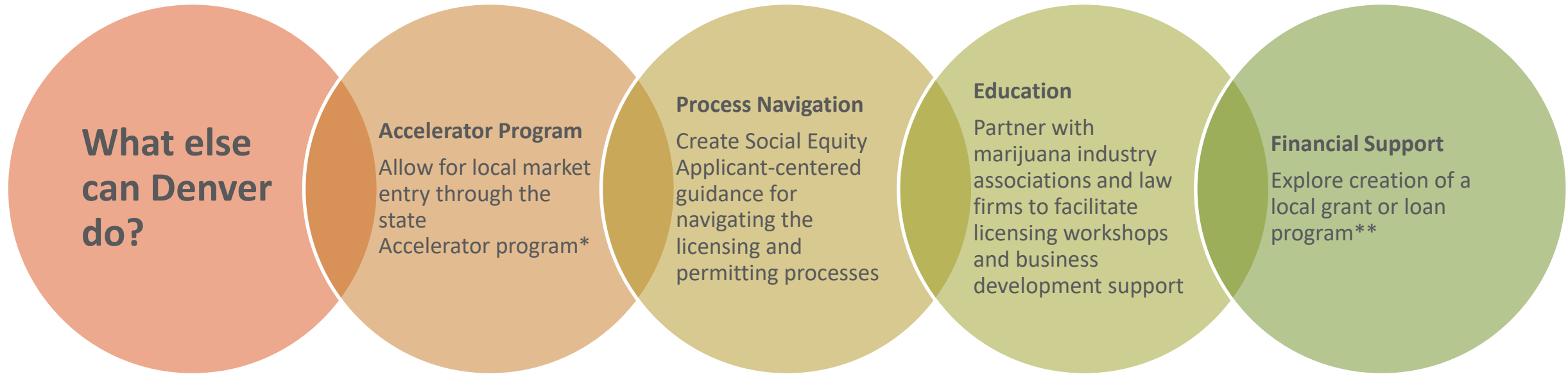
The applicant’s household income did not exceed 50% of the state median income as measured by the number of people who reside in the Applicant’s household.

- The number of residents in the census tract receiving public assistance;
- The number of residents in the census tract falling below the federal poverty level;
- The number of residents in the census tract failing to graduate high school; and
- The number of residents in the census tract who are unemployed.

Opportunities for Social Equity Applicants

	Proposal	Policy Explanation
Licensing Exclusivity Periods	Distribute the following licenses exclusively to social equity applicants for a period of 6 years, with a sunset review at the end of the time period: <ul style="list-style-type: none"> • Stores • Transporters • Cultivations • Manufacturing • Hospitality, Mobile Hospitality, Hospitality & Sales 	Since retail sales of marijuana began in 2014, early adopters have had 6+ years to establish themselves in the industry. Giving social equity applicants the same length of time for exclusive access to licenses could give them a similar opportunity to establish themselves in the industry
Transporter Delivery Exclusivity	Transporter Licensees will be given exclusivity to conduct delivery for 3 years before Stores are able to also conduct delivery.	Transporter licenses will be exclusively available to equity applicants. Requiring Stores to use Transporters to conduct delivery for 3 years will help social equity applicants generate revenue and give them a head start to establish their delivery businesses.
Reduced Fees	50% reduction in license and application fees Stores, Transporters, Cultivations, and MIPS Low licensing fees for new license types	Because access to capital is crucial to success, the City will provide financial support to social equity applicants by covering 50% of the licensing fees for approved social equity applicants and offering lower entry fees on new license types.

Other Support for Social Equity Applicants



*currently incorporated into omnibus bill language

**exploring revenue-generating possibilities and partnership opportunities to establish programs to assist social equity applicants with access to capital and funding support

The New Denver Marijuana Code

New Code Basics

Marijuana Codes in Chapter 6

- This bill moves the Medical Marijuana provisions from Chapter 24 to Chapter 6 where Retail Marijuana provisions area already located.

Consistent Terminology

- This bill aligns our code with state code by incorporating parallel terminology, such as medical and retail stores and cultivation facilities.

Requirements for existing licenses

- Provisions governing existing licenses have been evaluated using an equity lens and revised as necessary to clarify or update these requirements.

Youth Protection Regulations

Advertising



- Maintain current prohibition on outdoor advertising
- Narrowing new state exemption for branding

Density

- Maintain prohibition on new store or cultivation locations (new or transferred) in top five most saturated neighborhoods
- Maintain Director's ability to consider density of outlets when issuing or denying a license
- Maintain 1,000 feet between stores

Proximity



- Maintain current proximity restrictions for all license types
- Adjust the method for measuring proximity for drug and alcohol treatment facilities, city recreation centers, and outdoor pools

The Current Location Cap and Lottery

D.R.M.C. sec. 6-201 and 6-203

The Location Cap

- The issuance of any new **retail marijuana store** or **cultivation** license in the city shall be subject to a **cap** on the number of such **locations**
- The **formula** for calculating the caps is in ordinance

The Location Lottery

- Once the caps are calculated, the Director of EXL shall hold a **lottery** to **distribute** new retail marijuana store or cultivation **licenses** to eligible locations
- Protection is given to the top five most **saturated** neighborhoods

Proposed Distribution of Licenses

Proposal	Policy Explanation
<p>Remove the Cap on marijuana cultivation and store locations</p>	<ul style="list-style-type: none"> Initially intended to protect communities from over-saturation, the cap exacerbates inequities in the zoning code, resulting in a scarce number of available locations and driving up the cost of existing licenses for purchase. We've heard from community members that outside owners and investors are profiting from successful marijuana establishments operating in the city's most saturated communities, rather than the community members themselves.
<p>Eliminate the Lottery process for distribution of new store and cultivation licenses</p>	<ul style="list-style-type: none"> In regard to social equity applicants, the lottery creates different barriers to entry, such as burdensome financial requirements and time constraints to obtain property. Other jurisdictions that have implemented a lottery system, like Illinois, have faced legal challenges that delay the distribution of licenses and implementation of equity programs, with equity applicants footing the bill for the delays.
<p>Protect the 5 most saturated neighborhoods from additional store or cultivation locations</p>	<ul style="list-style-type: none"> Initially, this protection only applied to new store and cultivation locations created through the lottery. This proposal would maintain that protecting and expand it to prohibit existing stores and cultivations from transferring location into any of the 5 most saturated neighborhoods.

Improving the Public Licensure Process

Proposal	Policy Explanation
Require a Social Impact Plan (SIP) to be submitted with application instead of a Community Engagement Plan.	<ul style="list-style-type: none">• Improved transparency – SIPs must be made publicly available• Improved accountability – SIPs submitted with renewals must include updates on goals• Requirements for a sustainability plan and diversity & inclusion plan
Require evidence of community support for hospitality licenses, which will be included in the Social Impact Plan.	Encourages hospitality applicants to communicate with the host neighborhood and work through issues prior to the needs and desires hearing
If there is no filed opposition to the license application, allow for an expedited docket-style hearing.	If there is no opposition to the license, applicants can save the time and money required to appear at a needs and desires hearing.

Other Changes

Proposal	Policy Explanation
<p>Hours of Operation – Align with state on hours of operation for stores by shifting from 8:00 a.m. - 10:00 p.m. to 8:00 a.m. - 12:00 a.m.</p>	<ul style="list-style-type: none"> • Because most burglaries at marijuana stores occur between 2:00 a.m. - 4:00 a.m., DPD did not believe extending hours until midnight would increase burglaries. • Creates more flexibility and opportunity for licensees, including Social Equity Licensees.
<p>Safety Requirements – Require stores to remove product from the sales floor and secure it in a safe or vault at night.</p>	<ul style="list-style-type: none"> • Based on feedback from DPD, this requirement may help reduce burglaries at marijuana stores. • The City of Aurora has reported success with this requirement as a prevention measure against burglaries.
<p>Application Requirements – Minimize application requirements listed in ordinance.</p>	<ul style="list-style-type: none"> • Gives the Director greater flexibility to adjust application requirements when the state implements changes or if application requirements result in unintended consequences.
<p>Fee Changes</p>	<ul style="list-style-type: none"> • Increase Transfer of Location Fees from \$750 to \$1000 for licenses without a hearing, \$1500 for licenses that require a hearing • Increase Modification of Premise Fees from \$150 to \$300 • Increase Transfer of Ownership Fees from \$150 to \$250

Denver's Delivery Program



Marijuana Delivery Permits

Licensees that can obtain a Marijuana Delivery Permit

- Medical and retail marijuana stores
- Medical and retail marijuana transporters

Exclusivity for Equity Applicants



2021-2024: Only transporters may conduct deliveries.

- Transporters must qualify as a Social Equity Applicant and obtain a delivery permit.
- Stores that supply marijuana to consumers through transporters must do so pursuant to a contract between the store and the transporter, and the store must obtain a delivery permit.

After 2024: Transporters and stores may conduct deliveries.

Marijuana Delivery Basics

Who can receive deliveries?

A customer or patient must be 21+ to receive deliveries.

When can deliveries occur?

8:00 a.m. – 12:00 a.m.

How much product can be delivered?

Medical Sales Limits

2 ounces marijuana | 40 grams marijuana concentrate | marijuana products containing 20,000 mg THC

Retail Sales Limits

1 ounce marijuana | 8 grams marijuana concentrate | marijuana products containing 800 mg THC

Marijuana Delivery Logistics

Age Verification

Delivery drivers must check a consumer's ID before transferring marijuana to the consumer.



Additionally: Delivery drivers will be required to use ID scanners to verify consumer's age.

Payment

All legal forms of payment are acceptable, including online payment.



Additionally: Delivery drivers may not accept cash tips.

Marijuana Delivery Safety Regulations

Security Requirements

Video surveillance must record at least the marijuana storage compartment and the front view of the vehicle. Footage must be retained for a minimum of 40 days.

Total Product Limits

Enclosed delivery vehicles

Cannot contain more than \$10,000 in retail value of marijuana

Non-enclosed delivery vehicles

Cannot contain more than \$2,000 in retail value of marijuana

Record Requirements



Additionally: Delivery drivers must keep receipts in the vehicle.

Where can Marijuana Delivery occur?

Where can marijuana be delivered?

- A private residence in Denver
- A private residence in any other Colorado jurisdiction that affirmatively allows marijuana delivery

Where is marijuana delivery prohibited?

- Within any Colorado jurisdiction that does not affirmatively allow marijuana delivery
- Any premises located at a school or on the campus of an institution of higher education
- Any premises located on public property
- Any commercial property unit such as offices or retail space
- 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
- **Additionally:** To a drug or alcohol treatment facility



Marijuana Delivery Permit Fees

License Transaction	Fee
Application Fee (one-time)	\$1,000
License Fee (annual)	\$2,000
Transfer of Location	\$1,000
Transfer of Ownership	\$250

Hospitality Bill

What does this bill do?

Authorizes Marijuana Hospitality Establishments

- In alignment with the Marijuana Hospitality License created at the State level, this creates a Denver Marijuana Hospitality Program to allow for lawful marijuana consumption establishments with smoking and vaping options

Protects Youth

- Maintains strong youth protection provisions in Denver to minimize risks associated with marijuana legalization

Marijuana Consumption Laws in Denver

2016

- Denver residents approved the [Denver Cannabis Consumption Pilot Program](#) with the passage of Initiative 300

2017

- The Department of Excise & Licenses adopted [agency rules](#) to supplement the citizen-initiated ordinance

2018

- The first [Cannabis Consumption License](#) to allow for adult marijuana consumption in Designated Consumption Areas was issued in Denver

2019

- The Colorado General Assembly passed [House Bill 19-1230](#), creating two marijuana hospitality license types
- The Colorado Marijuana Enforcement Division subsequently adopted [agency rules](#) to supplement the statute

Hospitality License Types and Models

Marijuana Hospitality Establishment	Marijuana Hospitality Establishment (Mobile)	Marijuana Hospitality & Sales Establishment
<ul style="list-style-type: none">• Allows for consumption of marijuana by adult patrons within a permanent licensed premises.• No sales of marijuana permitted (BYOC only).	<ul style="list-style-type: none">• Allows for consumption of marijuana by adult patrons within a mobile licensed premises.• Mobile premises must be a vehicle (like a shuttle or a bus).• No sales of marijuana permitted (BYOC only).	<ul style="list-style-type: none">• Allows for consumption of marijuana purchased on-site by adult patrons within a permanent licensed premises.• Limited sales of marijuana are permitted - No BYOC.

Hospitality Establishment Basics

Who can patron a hospitality establishment?

A patron must be 21+ to enter *all types* of hospitality establishment.

When can hospitality establishments operate?

7:00 a.m. – 2:00 a.m. for *all types* of hospitality establishments

What methods of consumption are permitted in a hospitality establishment?

Indoor smoking and vaping are allowed at *all types* of hospitality establishments with proper odor and ventilation controls.



Additionally: LPG torches and butane lighters are prohibited at *all types* of hospitality establishments.

Local Hospitality Establishment Requirements

Overlapping Premises



In Denver: *All types* of Hospitality Establishment are prohibited from allowing their licensed premises to overlap with the licensed premises of a medical or retail marijuana store.

Odor Control



In Denver: An Odor Control Plan will be required for *all types* of hospitality establishments.

Public Hearing



In Denver: Applicants for a hospitality license must undergo a Needs & Desires hearing *unless* the hospitality establishment is mobile.

Hospitality Establishment Site Requirements

Outdoor



- Outdoor consumption areas must be surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.
- **Additionally:** Outdoor consumption areas must comply with existing Denver odor control and/or ventilation requirements.

Retail Food Establishment (RFE)



- Hospitality establishments that are co-located with an RFE must be separated from the rest of the RFE by a sight-obscuring barrier and secure door.
- Marijuana cannot be added to food that is served in the RFE.
- **Additionally:** Consumption areas in an RFE must comply with existing Denver odor control and/or ventilation requirements.

Youth Protection: Location and Proximity Requirements

Note: All businesses in Denver must comply with the Denver Zoning Code for their underlying use.

Protected Use	Hospitality: All License Types (PROPOSED)	Marijuana: Designated Consumption Areas (REPEALING)	Marijuana: Medical Centers & Retail Stores	Alcohol: Retailers (liquor stores)	Tobacco: Retailers	Alcohol: On-site Consumption (bars)
Schools	1,000 ft.	1,000 ft.	1,000 ft.	500 ft.	1,000 ft.	500 ft.
Childcare Facilities	1,000 ft.	1,000 ft.	1,000 ft.			
City Pools and Rec Centers**	1,000 ft.	1,000 ft.			1,000 ft.	
Alcohol or Drug Treatment Facility**	1,000 ft.	1,000 ft.	1,000 ft.			
Other Similar License Types	1,000 ft. from other hospitality		1,000 ft. from other stores/centers	1500 ft.		

**Modifying measurement methodology in omnibus bill

Hospitality Establishment Specifics

Mobile Hospitality Requirements

- GPS tracking of the mobile premise is required and each route must be logged according to SOPs.
- ★ **In Denver:** The applicant must supply the Department with route information and is prohibited from allowing consumption if the vehicle is stopped at any given location for more than 30 minutes.

Sales Limits for Hospitality and Sales Establishments

2 grams marijuana | .5 grams marijuana concentrate | marijuana products containing 20 mg THC or less

Marijuana Hospitality License Fees

License Transaction	Fee
Application Fee (one-time)	\$1,000
License Fee (annual)	\$2,000
Transfer of Location	\$1,500
Transfer of Ownership	\$250
Modification of Premises	\$300



Designated Consumption Area Repeal Bill

What does this bill do?

Repeals I-300

- Repeals the citizen-initiated consumption establishment ordinance **after** enactment of a Denver Marijuana Hospitality Program in line with state requirements

Converts DCA Licenses

- Establishments currently licensed as a Designated Consumption Area (DCA) will automatically convert to Hospitality licensees
- DCA licensees who are converted to Hospitality licensees would be required to have either a permanent premises or mobile vehicle premises.



Next Steps

2021 Marijuana Legislation Timeline

Bill	Topic	Legislation	Implementation	Effective
1 Omnibus Bill	<ul style="list-style-type: none"> • Social Equity • Changes to existing licenses • Marijuana Delivery 	Q1	Q2	Q3
2 Bill to Enact Marijuana Hospitality Program	<ul style="list-style-type: none"> • Marijuana Consumption 	Q1	Q2	Q3
3 Bill to Repeal Cannabis Consumption Pilot Program	<ul style="list-style-type: none"> • Marijuana Consumption • Cleanup 	Q1	Q2	Q3

Measuring Success

Data Tracking

- By offering licensing opportunities exclusively to equity applicants, we can easily track the number of applicants helped by the program.
- We'll also be tracking 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.

Continued Stakeholder Outreach

Stakeholder Feedback Sessions

- Tuesday, December 15, 2:00 – 4:30 p.m.
[Link to join Zoom Webinar](#)
- Thursday, December 17, 9:00 – 11:30 a.m. (focus will be on areas of most interest to marijuana businesses)
[Link to join Zoom Webinar](#)

Additional ways to provide feedback

- Written comment can be sent to marijuanainfo@denvergov.org. A [template](#) is available for your convenience.
- You may contact marijuanainfo@denvergov.org to request a meeting to learn more or provide feedback.





Questions?

Contact us at marijuanainfo@denvergov.org