

Marijuana Licensing Work Group Meeting #5

September 29, 2020

Attendance:

- Ashley Kilroy (co-chair), Denver Department of Excise and Licenses
- Molly Duplechian (co-chair), Denver Department of Excise and Licenses
- Councilmember Kendra Black, Denver City Council
- Councilmember Candi CdeBaca, Denver City Council
- Kenneth Allison, All About Hemp, LLC
- Anshul Bagga, Denver City Attorney's Office
- John Bailey, Black Cannabis Equity Initiative
- Sarah Belstock, Denver Public Health
- Truman Bradley, Marijuana Industry Group
- Shawn Coleman, 36 Solutions
- Jaqueline Flug, Drizly
- Michelle Garcia, Denver Mayor's Office of Social Equity and Innovation
- Michel Holien, Denver Public Schools
- Lt. Andrew Howard, Denver Police Department
- Clarissa Kriek, National Cannabis Industry Association
- Henny Lasley, Smart Colorado
- Jason Moore, Denver City Attorney's Office
- Dan Pabon, Schwazze
- Jessica Scardina, Vicente Sederberg
- Ryan Tatum, Cultivated Synergy
- Art Way, Equitable Consulting
- Sarah Woodson, The Color of Cannabis

Agenda:

1. Introductions
2. MLWG Purpose and Ground Rules
3. MLWG Meeting Format
4. Goals for Implementation
5. Feedback on Concepts and Outstanding Questions
6. Public Comment
7. Next Steps

Meeting Notes:

Item	Discussion
Social Equity Applicant Definition: Should Denver adopt the State of Colorado and	<ul style="list-style-type: none">• Seven members of the work group recommended that the city adopt the state's criteria for Social Equity Applicants.• One member asked if the state's criteria for identifying a disproportionate impacted area raised any red flags for the city or if

<p>the Marijuana Enforcement Division’s proposed language for a Social Equity Applicant?</p>	<p>it would be difficult to implement or screen applicants. The member also noted that a Social Equity Applicant would need to have resided in a disproportionate impacted area that meets two of the state’s defining criteria (if the applicant wishes to qualify under that criteria alone).</p> <ul style="list-style-type: none"> • A representative for the Department noted that the state has discussed developing a tool that will help applicants and cities determine whether someone qualifies as a Social Equity Applicant. The representative also clarified that the state criteria doesn’t require that qualifying cannabis arrests or convictions occurred in Colorado, or that opportunity zones or disproportionate impacted areas where applicants resided be in Colorado.
<p>Distribution of Licenses to Social Equity Applicants: Which license types should be reserved exclusively for Social Equity Applicants for a determined period of time?</p>	<ul style="list-style-type: none"> • One member asked whether some license types would be easier to reserve exclusively for Social Equity Applicants or whether reserving some license types would be met with more resistance. A representative for the Department asked members to address the question. • One member said all license types should be prioritized for distribution to Social Equity Applicants and added that more opportunities for success for Social Equity Applicants exist with new hospitality licenses because hospitality isn’t an established segment of the market. He cautioned against reserving the licenses, however, because he said a “critical mass” of hospitality businesses is needed in order for those businesses to become viable. The member said cultivation and manufacturing licenses – operated independently or through the state’s Accelerator program – also present good opportunities for Social Equity Applicants, because delivery will change the dynamic of consumers’ relationships with the supply chain. The member also said delivery permits should be included in license or permit types made available to Social Equity Applicants, but said they are less compelling business models because those permits require an underlying license and more infrastructure to start. • One member noted that the state Accelerator program provides opportunities for current licensees to collaborate with and support Social Equity Applicants who pursue store, cultivation, and manufacturing licenses. The member said that new store, cultivation, and manufacturing licenses should be made exclusively available to Social Equity Applicants, which may encourage partnerships with members of the existing industry. The member added that predatory practices have existed in other markets, but that many people in Denver work together and know each other. The member advocated for 1:1 license distribution or set-aside licenses for transporter licenses and for hospitality and sales licenses. The member noted this wouldn’t restrict current licensees or other new market entrants from participating in those

	<p>programs. The member did not think that making testing or research licenses exclusively available to Social Equity Applicants would have an impact on social equity efforts.</p> <ul style="list-style-type: none"> • One member said all license or permit types should be included in priority distribution to Social Equity Applicants and that current licensees should support efforts to help Social Equity Applicants become licensed. • One member said store and grow locations available under the cap should be reserved for Social Equity Applicants. The member also said applications from Social Equity Applicants for other license types should be fast-tracked by the city. The member also mentioned waiving fees for these applications. The member said this would reduce barriers to entry and speed the applicant’s entry into the market. • A member questioned whether the city and state have the budget to fund programs for Social Equity Applicants and said the industry hasn’t suggested it’s willing to fund a program either. Another member disagreed with that assessment and said the state and city are choosing not to fund the program, and that the industry has provided funding through tax dollars. The member also noted that members of the industry are providing mentorship and support to people interested in obtaining licenses through a social equity program. • One member said all license types should be available to Social Equity Applicants. The member said delivery permits are ideal for Social Equity Applicants because less capital is required to start a delivery business, and the business can grow and scale as consumer shopping patterns change. • One member said all license types should be reserved for Social Equity Applicants, but the length of time for exclusivity depends on the individual license type. The member noted that he wouldn’t want medical marijuana delivery to be delayed because the permits are reserved for Social Equity Applicants. The member said cultivation, manufacturing, and transporter licenses should be reserved as long as possible, but that there’s less need to reserve testing and research licenses for long. He reiterated that the goal should be to provide exclusive access to all license types and determine the length of time for each.
<p>Timeline for License Distribution to Social Equity Applicants: What is the right timeline to provide exclusivity for license distribution to Social Equity Applicants?</p>	<ul style="list-style-type: none"> • One member questioned whether the city has the financial resources to implement and sustain a program for two or more years. The member said he hasn’t heard suggestions from work group members on how the program will be funded and how it’ll support Social Equity Applicants in the long-term. Another member responded and said the Social Equity Applicant is required to own 51% of the business and may be able to raise enough capital to start the business in partnership with someone else. The member

mentioned the state Accelerator program, too, and said that may provide funding to Social Equity Applicants. The member noted that if it weren't for the impacts of COVID-19 on the city and state budgets, he thought there might have been a path to create funding from existing marijuana tax dollars.

- One member said a strategic decision was made to create the framework for a social equity program this year and address funding for the program in a second state bill next year. The member said the city and the state should provide funding and said there's opportunities to re-route city funds from other places (the police budget, for example). The member also said communities of color have been most harmed by COVID-19, and that funding for a social equity program would provide opportunities for equity and economic recovery. The member noted that in a survey of current licensees, all respondents said they would be willing to provide funding for an equity program, but wanted to know how the money would be spent, how much would be needed, and how the fund would work.
- One member recommended looking at exclusive licensing periods not in terms of length of time, but in terms of other metrics (revenue generated by the businesses or revenue dedicated to the program by the city or state, for example).
- One member said reserving all license types for Social Equity Applicants for a minimum of six years makes sense because that's approximately how long the current licensees have had an advantage in the market. She noted that the licenses issued now are owned predominantly by white people. The member also said there's no money in the city's budget and that the city won't recover from the financial impact of COVID-19 for several years.
- One member had no opinion on the number of years for exclusive access to licenses but encouraged the city to monitor and review the social equity program to prevent predatory practices or exploitation of Social Equity Applicants. The member noted this has happened in other markets.
- One member asked how the Department will let people know the number of licenses that are available and continued to ask for greater scrutiny of funding for the program.
- Another member said advocates for social equity need to continue to encourage the city and state to find funding streams and said work group members should avoid having a defeatist attitude. The member noted that the state's criteria for social equity applicants is broad and that many people will qualify. He said work group members shouldn't assume Social Equity Applicants won't have the ability to raise capital.

<p>Cannabis Social Equity Program Funding and Support: What are ideas to fund a cannabis social equity program in Denver or support the Social Equity Licensees?</p>	<ul style="list-style-type: none"> • One member asked if the industry has considered creating a fund for a social equity program. The member also asked whether the city could pursue partnerships with higher education institutions to provide education funding; or whether the city can explore funding for cannabis business development through foundations or trusts. • One member responded that the National Cannabis Industry Association has provided more than 100 free memberships to Social Equity Applicants and license holders around the country. The member mentioned that NCIA is also raising funds to provide to social equity programs nationwide. • One member said Denver collected \$32 million last year from cannabis licensees (in fees and excise taxes, among other things); he noted that \$9 million was reserved for capital improvement projects and \$2.5 million was allocated to the police budget. He advocated reallocating some of the \$2.5 million to a social equity program. The member also noted the marijuana cash fund at the state collects between \$200 million and \$300 million a year and said it should be relatively easy to reallocate some of that funding to a social equity program. He noted that cannabis licensees incurred various fines last year that totaled roughly \$1 million; he said that money isn't money the state budgets for, and that a portion of it should be set aside for an equity program. He also said the \$1 delivery surcharge that the state mandates go to law enforcement costs be redirected to a social equity program. • A member responded to the previous comment and said members of the current industry have had an advantage over Social Equity Applicants. He asked whether the industry would use industry-controlled dollars – not city or state tax dollars – to fund a program. • A representative for the Department asked what ways the industry and others could support Social Equity Applicants (through partnerships or additional regulations). • A member responded and said that state and local trade associations are discounting memberships and hosting job fairs for Social Equity Applicants and conducting equity-focused trainings with members. He said there are also mentorship opportunities available for Social Equity Applicants. • One member said requiring the relationship between stores and transporters to conduct deliveries is another way to ensure the success of some Social Equity Applicants. • One member said the Accelerator program can introduce private investors to Social Equity Applicants and asked if the city could help pitch ideas to private investors or match dollars raised by private investors.
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	<ul style="list-style-type: none"> • A representative for the Department asked whether the \$1 surcharge or higher fees may impact demand for delivery, which may ultimately impact the success of Social Equity Applicants. A member responded and said additional fees (service charges) for alcohol delivery have not negatively impacted alcohol delivery sales.
<p>Cannabis Social Equity Program Features - Cap and Lottery: If licenses are available only to social equity applicants for a period of time, how should the cap and lottery be addressed?</p>	<ul style="list-style-type: none"> • A representative for the Department said there are currently less than a dozen store locations available under the cap and between 20-30 cultivation locations available under the cap. • A member wanted to know more about what has happened in other states with caps and lotteries. • A member said she supports maintaining the caps because the caps prevent saturation of cannabis businesses in neighborhoods. • A member said she supports maintaining the cap and said she wants work group members to consider equity and health equity in neighborhoods that may be saturated with marijuana businesses. She mentioned density of cannabis businesses may influence youth perception of marijuana. • A member asked whether there is a cap on manufacturing locations, and a representative for the Department said there is not. • A member said different types of manufacturing facilities pose a danger to neighborhoods. The member said there is an equity concern because solvent-based extraction facilities are required to be in industrial areas, where many people of color live as a result of redlining. The member supported the idea of co-op kitchens but expressed concern about heavy manufacturing and solvent-based extraction facilities near residential neighborhoods. • A member said caps can create a non-equitable system because they result in people selling licenses at inflated costs. The member said applications could be evaluated on an individual basis, without having a cap. The member encouraged others to consider other solutions to address saturation. Another member responded and said the cap is a good solution for saturated or almost-saturated neighborhoods and suggested looking at zoning solutions, too. The member said grow facilities are concentrated in communities of color, and suggested using commercial zones as areas for cultivations, too. • Members asked whether zoning will be a barrier to entry for Social Equity Applicants. A member responded that it's harmful to people who live in saturated neighborhoods and a barrier to entry for people applying for new licenses. A member also asked whether there are race-based reasons why some landlords don't rent to cannabis business owners and why historically there was a concentration of marijuana businesses in black and brown communities • A representative for the Department said zoning and proximity can be barriers for some applicants, and that historically, landlords

didn't want to rent to cannabis business owners because of the stigma around cannabis. Additionally, at the time when marijuana first started in Denver, businesses looked at areas that had smaller warehouses with less expensive land costs that didn't have federally-backed mortgages because of the concerns with it still being illegal federally.

- A member mentioned there's an economic issue, too, because there has been a perception that renting property to a cannabis business is riskier. The member mentioned that the landlords who rent to cannabis businesses either own the building or plan to sell the building to the marijuana business owner.
- A member said she thinks the decision for some cannabis businesses to locate in some neighborhoods was driven by economics and not necessarily by race. The member also supports removing the cap and lottery. The member also said there have been issues with lotteries in other markets. The member said the city should create systems that reflect the outcomes the city wants to achieve.
- A member said cultivations can only be located in industrial zones. The member said stores can go where retail sales are permitted. She noted that in addition proximity restrictions often prevent stores from being in commercial areas and that they're then located in industrial zones where proximity isn't as much of a factor. The member said this creates a barrier to entry for Social Equity Applicants, and that eliminating some proximity restrictions or revising zoning would open more areas in central Denver for those businesses to operate. The member advocated for eliminating the cap, eliminating the lottery, and keeping protections for saturated neighborhoods in place. The member said the cap and the proximity restrictions result in costly license transfers and high costs for leases, which do not help Social Equity Applicants.
- A member said if the caps are removed, it will pit black and brown neighborhoods against black and brown Social Equity Applicants. The member noted that black and brown neighborhoods will fight to maintain the caps, even if it harms Social Equity Applicants. The member suggested revising zoning restrictions because it mandates cannabis businesses be located in certain neighborhoods, even if there are economic considerations at play when choosing a location as well.
- A member said some of the decisions to be made regarding the cap and lottery depend on the period of exclusivity for some license types for Social Equity Applicants. A member said she would support maintaining the cap but removing the lottery criteria. The member also advocated for reducing the number of protected saturated neighborhoods, reducing the proximity restrictions, and revising zoning restrictions.
- A member said Excise and Licenses should find out whether Community Planning and Development is amenable to making

	<p>adjustments to zoning restrictions for both the zone districts businesses are able to locate and to address zoning as being a barrier to social equity applicants</p> <ul style="list-style-type: none"> • Another member stated they would like changes to zoning be included as a part of an overall equity package. A work group member stated they could work with the Councilwoman to provide her information that could inform a proposal she could bring to City Council to change zoning. • A representative for the Department asked how licenses would be distributed under a cap without a lottery. • Two work group members said the licenses could be distributed through a first-come, first-served process, and that applicants who are prepared to apply would be able to apply without a lottery. • A representative for the Department asked whether the first-come, first-served process would create more opportunities for predatory practices. A work group member responded and said the program shouldn't be a handout to people in communities of color; it should provide opportunities to black and brown entrepreneurs. She noted that Social Equity Applicants must own 51% of the business and said if established licensees want to provide funding to a Social Equity Applicant to open a new store, it's still a win. Another member said the city can provide some education on predatory practices to help Social Equity Applicants avoid those situations. Another member said predatory practices are still likely to happen in Colorado. • A member asked if the city could allow only Social Equity Applicants to use residential kitchens or home cultivations to sell products at farmer's markets. A representative for the Department said that may need to be addressed by state laws. The member said we may need to create exemptions from some regulations for Social Equity Applicants to be more successful. • A member asked how hospitality and sales licenses would impact the cap. The member noted that there's an impact on youth perception of marijuana when there's increased density and expressed concern that hospitality and sales licenses would increase saturation of marijuana businesses in some neighborhoods.
<p>Cannabis Delivery Regulations - Preventing Diversion: What additional safeguards would be effective to prevent diversion through delivery sales?</p>	<ul style="list-style-type: none"> • Not discussed.

Hospitality and Stores - Density and Saturation: What tools should be utilized to reduce density and concentration of businesses that allow for sales?

- A member noted that state law prohibits hospitality and sales businesses from contributing to “street life” because they’re prohibited from showing what activity is happening inside.
- A member said odor can be unintentional advertising and that we should consider what normalization of odor does to youth in neighborhoods. A member responded that odor is addressed in state regulations and said there’s no way for cities to opt out of those regulations. Another member countered that Denver could not opt into hospitality altogether. A member said not allowing hospitality businesses would mean Denver isn’t a leader in policy change or in positive normalization of marijuana.
- Another member said some of the city’s strongest tools to preventing youth use of marijuana is in proximity restrictions and managing density. The member mentioned that research on density related to tobacco and alcohol has been very clear that as density of sales outlets increases, use and particularly youth use increases.
- A member asked how hospitality and sales would result in more density and noted that the sales limits are lower than what is allowed in stores. A member responded and said density often looks at how many licenses or locations exist in one specific area.
- A member said there aren’t legal spaces to consume marijuana and that it’s very difficult to get a license under I-300. The member asked health specialists in the group how public consumption affects youth perception. A member responded and said the research is less clear on how public consumption affects youth perception, but it may influence youth’s expectation of a positive outcome from consuming cannabis or may normalize cannabis use for youth.
- A member said data in the Healthy Kids Colorado Survey show increases in ways some youth consume marijuana, with increases in dabbing and in edible consumption. The member said the rules for hospitality prevent youth from seeing how the product is being consumed in the hospitality business. The member also said there seems to be no research on density of marijuana sales locations and that the research we rely on is based on alcohol.
- A member referred to density as the number of locations where cannabis can be purchased, and that research in other industries shows how that impacts youth perception.
- A member said it’s important to have licensed hospitality businesses because it may discourage people from consuming in public. The member said it may also create positive normalization. The member noted youth will live in a world where cannabis is legal, and hospitality provides an opportunity to model responsible consumption behaviors.

	<ul style="list-style-type: none"> • A member asked cannabis trade associations whether there has been any research on how many people will stop consuming in public and will start using hospitality businesses. A member responded and said the number of people who choose to consume in hospitality businesses (vs. in public) will depend on how hospitality businesses are regulated. The member said the businesses must be attractive to consumers and must be able to be profitable and safe. The member also said needs and desires hearings can help businesses work with neighborhoods to determine safe operations. • A member responded and said needs and desires hearings aren't the best model. The member said neighborhoods don't have the power to fight attorneys for large businesses. • A member offered to share two studies with work group members that show information on youth use. • A member said that while youth use rates have been relatively stable in Colorado, rates of dabbing and vaping among youth have increased and the number of youth driving under the influence of marijuana has increased.
<p>Hospitality Proximity Restrictions - Should the 1,000-foot buffer between retail stores be applied to Hospitality and Sales Businesses?</p>	<ul style="list-style-type: none"> • Not discussed
<p>Mobile Hospitality Business Models: Should any of these business models or parts of these business models be prohibited or limited to address similar time, place and manner regulations in place for stationary businesses?</p>	<ul style="list-style-type: none"> • Not discussed
<p>Hospitality – Devices Allowed: Which devices should be prohibited in hospitality establishments to appropriately balance</p>	<ul style="list-style-type: none"> • Not discussed

<p>safety concerns with providing options for methods of consumption?</p>	
<p>Public Comment</p>	<ul style="list-style-type: none"> • A member of the public said she would support an effort to create a funding mechanism for a social equity program, specifically an interest-free loan program or grant program. The member of the public said she liked the idea of reallocating funds from law enforcement to a social equity fund. She also advocated for eliminating the cap, eliminating the lottery, and continuing protections for saturated neighborhoods. She also said the zoning and proximity restrictions for businesses are untenable and that they should be revisited, and she encouraged the Department of Excise and Licenses to raise the issue with Community Planning and Development. She noted that cannabis businesses have been proactive in youth use prevention campaigns. • A member of the public said many trade associations are providing free memberships, trainings, and networking opportunities to people who qualify as social equity licensees. She said barriers to entry for Social Equity Applicants must be lowered, and that cannabis tax dollars should go back to communities harmed by the war on drugs, and to support social equity programs. • A member of the public said the city or state don't need to provide money to Social Equity Applicants, because they're only required to own 51% of their license, and other investors can pitch in and support. For the locations that marijuana businesses choose to locate, she said changing zoning would not make much of a difference. She stated that changes in distance requirements might help, but not much. She also noted that some neighborhood associations are just not friendly to cannabis businesses, which is a barrier to some people opening cannabis businesses. She also said that hospitality services won't be as in-demand as some people think they will be, and they won't necessarily be profitable, even with a sales component. • A member of the public said the city can implement delivery in a way that advances social equity through transporter licenses. It can also implement delivery to generate more revenue, create employment opportunities in the economic downturn, and provide cannabis patients and customers a safer way to access their medicine or product. He supports some exclusivity for transporter licenses, and the ability for dispensaries to conduct limited deliveries. He also said the city can require businesses to do some targeted hiring in communities affected by the war on drugs or encourage them to be good corporate partners in those neighborhoods. He also mentioned the city could attach a fee to dispensaries who conduct deliveries on their own, which would

	<p>generate funds for an equity program as Social Equity Applicants obtain transporter licenses.</p> <ul style="list-style-type: none">• A member of the public said the city provides more opportunities for people to consume alcohol. The member cited state rules that create more restrictive environments for marijuana hospitality businesses. The member asked why the attitude toward marijuana and marijuana hospitality businesses is different from attitudes toward alcohol and spaces that allow alcohol consumption. He advocated that cannabis consumers be treated fairly, and that they are provided similar opportunities to consume.• A member of the public said medical delivery and patient access is important. She said Denver should keep patients in mind as it regulates marijuana delivery. She said she is disappointed medical patients don't have access to delivery in Denver. She said she's not advocating for two different structures for delivery, but thinks medical delivery is an important service for patients to access now.
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