

**Social Consumption Advisory Committee (SCAC)**  
**Meeting Minutes**  
**Meeting #2-February 8, 2017**

**1. Attendance**

<b>Participant</b>	<b>Organization</b>
Ashley Kilroy (co-chair)	Denver Excise and Licenses
Molly Duplechian (co-chair)	Denver Office of Marijuana Policy
Kendra Black	Denver City Council
Mary Beth Susman	Denver City Council
Deputy Chief David Quinones	Denver Policy Department
Marley Bordovsky	Denver City Attorney's Office
Jude Del Hierro	Community representative
Sam Kamin	University of Denver Sturm College of Law
Kristi Kelly	Marijuana Industry Group
Dan Landes	Business representative
Fran Lanzer	Mothers Against Drunk Driving
Aubrey Lavizzo	Community representative
Amber Leytem	Denver Public Schools
Amie Mayhew	Colorado Hotel and Lodging Association
Karin McGowin	Colorado Department of Public Health and Environment
Maureen McNamara	Cannabis Trainers
Rachel O'Bryan	Protect Denver's Atmosphere
Jordon Person	Denver NORML
Emmett Reistroffer	Denver Relief Consulting/Yes on 300
Sonia Riggs	Colorado Restaurant Association
Margie Valdez	Inter-Neighborhood Cooperation
Kobi Waldfogel	Event planning representative

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**2. Agenda**

- a. Introductions
- b. Review/Summary of Comments from Meeting 1
  - i. Proximity Restrictions
  - ii. Location Restrictions
  - iii. Unlawful acts
  - iv. Follow-up on Data Requests/Questions raised
    - 1. Crime Stats for “clustering”
    - 2. Possible definition of “where children congregate”
- c. Discussion Topics
  - i. Location restrictions – continued from previous meeting
  - ii. Unlawful acts – continued from previous meeting
  - iii. Application Requirements
  - iv. Operational Requirements

**3. Meeting Notes**

Item	Discussion
1. Sec. 6-311. Zoning, location, and setback requirements - Proximity Restrictions	<ul style="list-style-type: none"> <li>• Picking up a discussion from the previous meeting, the group was asked about restricting Designated Consumption Area permits (DCA’s) from locating within 1,000 feet of “a place where children congregate.”</li> <li>• Previous concerns resurfaced about whether a buffer around “mixed use” facilities (places where children <i>occasionally</i> congregate) would create unintended consequences.</li> <li>• Some members felt that the required evidence of community support provides discretion to eligible neighborhood organizations (ENOs), and this restriction would take away some of that discretion.</li> <li>• Other group members cautioned that relying on the ENOs to create restrictions may put too much pressure on ENOs. These members expressed that different ENOs have different bargaining tools.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Members continued to struggle over an enumerated list versus an open ended list of locations or facilities that would fall into the definition.</li> <li>• Members wanted to look at it in three tiers: 1.) Where DCA's cannot be located, 2.) Where DCA's cannot be within 1000 ft. and 3.) Where DCA's cannot be visible from.</li> <li>• Some members wanted to include "churches" to the list of places where children congregate. Others felt that it would be too restrictive to add "churches," especially in the Capitol Hill area for example. Members also noted that liquor stores are not prohibited from locating next to churches.</li> <li>• Some members felt that the sticking point in the offered definition is the clause "places where persons under 18 years of age gather for regularly scheduled" programs.</li> <li>• All of the group members continue to agree that childcare, and alcohol/drug treatment facilities, and schools were appropriate types of facilities to place distance restrictions around.</li> </ul>
<p>2. Crime Statistics Regarding Clustering (action item from previous meeting)</p>	<ul style="list-style-type: none"> <li>• Deputy Chief David Quinones explained that he sat down with his 17 crime analysts in order to try and develop parameters for these statistics. The consensus was that DPD does not gather crime statistics for other types of clustered businesses. Deputy Chief Quinones explained that when DPD enforces regulations at other problem locations, it is based on the knowledge of individual officers and on neighborhood complaints. Deputy Chief Quinones also presented general marijuana-related crime statistics. He stated that any data gathering in the future will need to stay flexible.</li> </ul>
<p>3. Sec. 6-311. Zoning, location, and setback requirements.</p>	<ul style="list-style-type: none"> <li>• The Department explained that the initiative, as written, does not allow the City to impose the same zoning restrictions as the zoning restrictions applicable to marijuana stores and centers. However, the underlying business use for permit location (i.e. coffee shop) would still have to obtain a valid zone use permit.</li> <li>• Jill Jennings-Golich, Deputy Director of Community Planning and Development (CPD) identified that there would be concerns if the marijuana use (the accessory use) associated with a DCA was to overtake the underlying business use (the primary use).</li> </ul>
<p>4. Sec. 6-309. Unlawful Acts- continued from previous meeting.</p>	<ul style="list-style-type: none"> <li>• The Department explained that, based on feedback from the last session, "processing" may be stricken from the unlawful acts section. Additionally, permittees are now only restricted from allowing the sale of marijuana, or the distribution of marijuana, <i>for remuneration</i>.</li> <li>• One member was concerned about allowing DCA locations to have lockers where product could be stored. That member stated that lockers may be included in proposed Senate Bill 17-063.</li> </ul>

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	<ul style="list-style-type: none"> <li>• It was clarified that, under the proposed language, storage of product would be prohibited. That section prohibits “storage” of product. Another member also stated that permittees would be subject to the one-ounce possession limit, which would prohibit storage.</li> <li>• Some members felt that visible intoxication and drugged driving should be incorporated into the unlawful acts section. These members also felt that Dram Shop liability laws should be applied here.</li> <li>• Other members suggested that this would be difficult to enforce. For example, law enforcement’s experience in implementing DUID (driving under the influence of drugs) laws indicate that methods used to identify marijuana intoxication are still evolving and difficult.</li> <li>• One member clarified that DUID laws are already enforceable, but visible intoxication would have to be a new offense.</li> <li>• Some members felt that permittees would be in a better position to ensure that patrons do not leave visibly intoxicated.</li> <li>• At least one member mentioned that the rules could require DCA permittees to obtain liability bonds.</li> <li>• The group then moved on to discuss whether the one-ounce limit for patrons would apply to medical marijuana patients. Most members felt that the one-ounce restriction was reasonable. However, some members also felt that medical patients should be able to bring the full two ounces into a DCA and also questioned what restricting medical patients to one ounce would solve for.</li> </ul>
<p>5. Sec. 6-309. Unlawful Acts – Advertising Restrictions</p>	<ul style="list-style-type: none"> <li>• The current advertising restrictions for other types of marijuana businesses were presented and it was proposed that these same restrictions apply to DCA permittees.</li> <li>• The City Attorney’s Office clarified that the advertising restriction would not prohibit a fixed sign on the same zone lot as the permitted premises solely for identification purposes.</li> <li>• Kyle Dalton, Community Planning and Development, explained that each zone district also has specific requirements regarding billboard advertising and signs.</li> <li>• The group agreed that the advertising restrictions that apply to medical marijuana centers and retail stores should also apply to DCA permittees.</li> <li>• The City Attorney’s Office also clarified that the State Licensing Authority has advertising rules related to television, radio, the internet and print media.</li> </ul>

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	<ul style="list-style-type: none"> <li>Members agreed that the State Licensing Authorities restrictions should be incorporated into the rules and regulations.</li> <li>One member clarified that the restrictions located in the state rules are fairly liberal</li> </ul>
<p>6. Sec. 6-308. Application Requirements</p>	<ul style="list-style-type: none"> <li>Some members expressed support for the current language in the initiative. The current language requires an employee training manual that includes procedures to identify and respond to over-intoxication. These members suggested that industry personnel who are certified trainers under the state Responsible Vendor Training Program could help develop these procedures.</li> </ul>
<p>7. Sec. 6-310. Operational Requirements -- Outside smoking occurring at street level may not be visible from any place where children congregate</p>	<ul style="list-style-type: none"> <li>All members agreed that “a place where children congregate” needs to be defined for visibility purposes.</li> <li>Some members expressed a concern that a 1,000-foot restriction would not necessarily ensure that outdoor smoking is not “visible” by children.</li> </ul>
<p>8. Sec. 6-310. Operational Requirements -- Cameras</p>	<ul style="list-style-type: none"> <li>Some members opposed video cameras inside of a Designated Consumption Area due to privacy concerns.</li> <li>Other members suggested that, although this should not be a requirement, insurance companies may require cameras inside of a DCA.</li> <li>One member suggested that cameras could be helpful in providing evidence of potential diversion, or other law violations on the premises. Similarly, businesses may want cameras inside of DCAs to provide evidence if personal property is taken, or if patrons are in danger. At least one member stated that cameras can be very important in solving crimes.</li> <li>One member suggested that cameras only be required at points of ingress and egress so as to not be invasive. Other members agreed, stating that outdoor cameras are required for stores and centers. Moreover, one member stated that outdoor cameras would provide evidence of how these business interact with the businesses and patrons surrounding the premises.</li> </ul>

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<p>9. Sec. 6-310. Operational Requirements- Marijuana Waste Plan</p>	<ul style="list-style-type: none"> <li>• One member suggested that a waste plan may be excessive because, unlike other marijuana facilities, there should not be very much marijuana waste associated with DCA locations.</li> <li>• Another member stated that even with small amounts of waste, some facilities have problems with “dumpster diving” in order to obtain peripheral marijuana product, for example, gloves used by marijuana trimmers. This member stated that certain waste disposal methods could be very cost effective.</li> <li>• Generally, most members agreed that the business should have flexibility when developing a waste disposal plan.</li> </ul>
<p>10. Sec. 6-310. Operational Requirements- Odor Control Plan.</p>	<ul style="list-style-type: none"> <li>• Bill Benerman, Department of Environmental Health (DEH), explained the specifics of the new odor ordinance adopted by City Council, and the rules and regulations adopted by the Board of Environmental Health.</li> <li>• Some members questioned how an odor control plan would practically limit the odor from outdoor marijuana smoke. These members suggested that they would have similar concerns with odor control plans as marijuana waste plans. Specifically, these members cautioned that certain standards should not be too subjective, specific or onerous, especially if the odor control technology for outdoor smoking hasn’t been developed.</li> <li>• One member felt that requiring a complex or technical odor control system would make obtaining a DCA permit cost prohibitive.</li> <li>• Other members reiterated that this concern could be covered in Good Neighbor Agreements (GNAs) or included in the evidence of community support.</li> <li>• Other members noted that DCAs can be located in “embedded commercial districts” within residential neighborhoods, therefore, an odor control plan should be required for outdoor smoking. Moreover, if the Department requires a waste plan, it should also require an odor control plan.</li> </ul>

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Public Comment	
Item	Discussion
Public Comment	<ul style="list-style-type: none"> <li>• Priscilla Solis (Deputy Director of Denver NORML) – Ms. Solis had comments relating to vaporization and the one-ounce limitation. She stated that one ounce is generally sufficient for most consumers, especially if the consumer is vaporizing marijuana. She also suggested that the application of the one-ounce limitation to concentrates and edibles should be clarified.</li> <li>• Matt Bell (Cannabis Consulting) – Mr. Bell expressed concerns about sponsorship. He felt that the group should discuss sponsorship regulations because permittees may seek to monetize their business models using sponsors.</li> <li>• Cliff Gordon (Dispensary Manager) – Mr. Gordon expressed concerns about the proximity restrictions. He suggested that adding churches may unduly restrict the number of available locations. He suggested that the proximity restrictions applicable to bars would be more appropriate because these DCA permits are for consumption only. Mr. Gordon also suggested that indoor consumption would be easier to control than outdoor smoking, if the Colorado Clean Indoor Air Act would allow indoor smoking.</li> <li>• Pete Bialick (GASP) – Mr. Bialick suggested that the only feasible way to control outdoor smoking is to move the smoking or prohibit it. Mr. Bialick also stated that the American HVAC society has said that there may be chemicals in vaporized marijuana and tobacco smoke that cannot be filtered through the HVAC system. Mr. Bialick suggested that there may be chemicals in vaporized marijuana smoke that could cause cancers and the group should look at ventilation requirements.</li> <li>• Justin Henry (Liquor Licensee) – Mr. Henry wanted to emphasize that the group should focus on regulatory certainty. For example, he suggested that the group should be clear if the proximity measurement is conducted via pedestrian access or in a straight line. He also suggested that potential permittees should pay attention to occupancy loads, fire codes, and building codes, prior to beginning any application process.</li> </ul>

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#### Public Comment

- Chris Jetter (Cultivator) – Mr. Jetter wanted to emphasize the importance of Amendment 20, and he wanted to explain that the rights listed in Amendment 20 are constitutional rights in Colorado.
- Nick Philips (Denver Resident) – Mr. Philips explained that an airport in Aspen has “amnesty” boxes where travelers can dispose of marijuana waste. He suggested that these boxes could be an option for marijuana waste plans. He also wanted to point out that the hours of operation for DCA permit locations are different than the hours allowed for centers and stores, which may increase drugged driving.
- Stephanie Davis (Non-Profit for Veterans) – Ms. Davis wanted to express her appreciation for DCA permits because a social use club may provide an outlet for veterans to meet other veterans struggling with PTSD.
- Kaitlin Hoddell (Citizen) – Ms. Hoddell wanted to express that medical marijuana patients may be traveling from other jurisdictions, and they may not want to leave their medication unsecured. She suggested that the group consider increasing the possession limit for medical patients so that they can have their medication with them at all times.
- Zachary Dane (Property Owner) – Mr. Dane expressed his appreciation of the pilot program. Mr. Dane stated that his properties do not allow consumption on site, and he hopes that these permits provide an outlet for people to consume. He also wanted to know if DCAs would be allowed to be located adjacent to a liquor license. Additionally, he suggested that the group should think about whether hospitals and emergency rooms would be considered alcohol and drug treatment facilities. Lastly, he wondered if medical marijuana would be considered medical waste, and if there were any special requirements for medical marijuana waste.
- Kenny Breeding (Citizen) – Mr. Bree expressed his appreciation of the DCA program. He stated that the program would allow medical marijuana patients to consume in a lawful manner, outside of the public view. He stated that this was particularly helpful for patients that have traveled from other states, because they may not have anywhere to consume their medication.