The Evolving Marijuana Industry in Denver: Denver’s 2020 Cannabis Work Plan

Stakeholder Feedback Session
March 5, 2020
Why are we here today?

1. Present our proposed Cannabis Licensing Policy Sequencing Plan for 2020
   - Includes 4 phases
   - Prioritizes exploration of new cannabis licenses, including delivery, hospitality, and hemp production
   - Ensures incorporation of a comprehensive social equity program

2. Present Phase 1 of the proposed plan and essential background information
   - Set location cap on marijuana cultivation locations and store locations
   - Align lottery timing with completion of all pending applications and development of a social equity program
   - Create a new local marijuana license for Research & Development
Cannabis Licensing Policy
Sequencing Plan
2020
### 2020 EXL Policy Priorities by Category

#### Cannabis
- Outstanding MJ Priorities
  - Location Caps
  - Location Lottery
  - Conforming Amendments
- State-Authorized Licenses
  - R & D
  - Hemp Licenses
  - MJ Delivery Licenses
  - MJ Hospitality Licenses

#### Liquor
- Rulemaking
  - Common Consumption
- Implementation
  - Common Consumption

#### Short-Term Rentals
- STR Code Updates
- Primary Residence Licensing Fees
- New STR Requirements
- Platforms
- Property Managers

#### Other Licensing Areas
- Tobacco
- Aquatic Venues
- Body Art
- Massage Parlors
- Food/Food Trucks
- Licensing Fee Study
- Other Policy Directive(s)
## Cannabis Licensing Policy Sequencing

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Cannabis Licensing Policy
Phase 1
### The Location Cap and Lottery: A Timeline

- **2010**
  - EXL began licensing medical marijuana businesses

- **2014**
  - EXL began licensing retail marijuana businesses
  - This included a transition phase allowing previously existing medical businesses to add/convert to retail

- **2015**
  - The transition phase expired, spurring a City Council discussion about the number and location of medical and retail marijuana businesses in the City

- **2016-2018**
  - EXL processed applications that were pending as of 5/1/16
  - Some applicants were granted several extensions

- **2016**
  - On 5/1/16, City Council established a permanent moratorium on medical marijuana businesses and a city-wide cap on certain retail marijuana businesses

- **2019**
  - On 11/12/19, the final application that was pending on 5/1/16 was closed

- **2020**
  - On 1/10/20, the opportunity for the final applicant to appeal passed and all applications that were pending on 5/1/16 were deemed processed

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The Marijuana 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 most saturated neighborhoods.
Setting the Location Caps
D.R.M.C. sec. 6-203(b)

The director shall calculate and publish the cap on marijuana sales locations, the cap on marijuana cultivation locations, and the cumulative cap on marijuana cultivation and sales locations as soon as possible after a determination is made by the director on all applications for new licenses that were pending on May 1, 2016.

The director's calculation of the caps shall be considered dispositive and shall not be subject to appeal.

Remember:
We were just able to make this determination last month.
The Location Cap Formula

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

# of active locations on 5/1/16 + # of new locations approved since 5/1/16 = Cap*

The formula is used to calculate three separate caps:
- A cap on marijuana **cultivation** locations
- A cap on marijuana **sales** locations
- A **cumulative** cap on sales and cultivation locations

* Cap = Maximum number identified by ordinance, unless calculations equal a lesser number
Setting the Location Caps

D.R.M.C. sec. 6-203(b)

- **Cultivation**: 273 + 26 = 299
  - Max = 311
- **Storefronts**: 212 + 8 = 220
  - Max = 226
- **Cumulative**: 422 + 29 = 451
  - Max = 467

Caps will be set at the equation total since they are less than the maximum number identified by ordinance.
After Caps are Set - The Location Lottery
D.R.M.C. sec. 6-203(c)

Current language-DRMC Sec. 6-203 (c) – Beginning in 2017 and continuing once in each calendar year thereafter, the director shall administer an open application process for new store and cultivation locations, to the extent the total number of current licensed locations falls below the cap and if the cumulative number of locations falls below the cumulative cap.

Proposed language -DRMC Sec. 6-203 (c) – Beginning in 2021 and continuing once in each calendar year thereafter, the director shall administer an open application process for new store and cultivation locations, to the extent the total number of current licensed locations falls below the cap and if the cumulative number of locations falls below the cumulative cap.

Remember: There were no lotteries in 2017, 2018, or 2019 because we still had applications pending from 5/1/2016!
## WHY HOLD FIRST LOTTERY IN 2021?

### Equity

- Denver Cannabis Business and Employment Study and Cannabis Trade Foundation DEI report (projected completion in January 2020)

- State definitions of “Equity Applicants” for Accelerator Program (projected to be refined in 2020 legislative and rulemaking sessions)

- Denver citizens have asked for a program to ensure equitable access to the cannabis industry (without such a program, we will likely see licenses go to same demographic as those who hold the current licenses)

### Rapidly Changing Environment

- Availability of new state license types for marijuana delivery, hospitality establishments, and accelerator licenses provide opportunities for market evolution

- Monitoring impact of greater outside investment (HB19-1090), which changed the ownership requirements of a cannabis business in late 2019

- Market challenges and changes (additional states entering the market)
### Why sequence R&D first?

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<th>Pilot Equity Provisions</th>
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<td>• The state authorized R&amp;D licenses in 2017, and we’ve had time to conduct research, policy analysis, and outreach</td>
<td>• Will preserve Denver’s reputation as a leader in the regulated cannabis industry</td>
<td>• Provides an opportunity to develop workforce training program for higher paying jobs</td>
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<td>• Can be adopted without a need to amend the location cap</td>
<td>• Will foster innovation and entrepreneurship</td>
<td>• Researches potential treatments for health challenges that are higher in low income populations</td>
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<td>• Small number of interested applicants means less extensive outreach was needed</td>
<td>• Will attract and retain the best and brightest in a new field</td>
<td>• Facilitates corporate responsibility programming including sustainability and diverse hiring practices</td>
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<td>• Higher value segment of the industry, including valuable assets</td>
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Proposed Ordinance Features

D.R.M.C. 24-506
- Authorizes a medical marijuana research and development license

D.R.M.C. 24-510.3
- Sets out the licensing requirements for R & D facilities

D.R.M.C. 24-507
- Sets out the application requirements for R & D facilities, including a required Social Impact Plan

Throughout
- Updates references to the Colorado Medical Marijuana Code, which is now the Colorado Marijuana Code, and corresponding citations
Licensing Requirements

**Dual License**
- The Director shall not issue a local R & D license unless the applicant has a state R & D license.
- Licensee must be in compliance with all applicable laws and rules.

**Cultivations**
- R & D facility doing cultivation must be encompassed by an existing licensed cultivation facility.
- Failure to comply with this requirement is an unlawful act.

**Processing and Manufacturing**
- R & D facility that processes or manufactures must comply with D.R.M.C. 24-509.
- Failure to comply with this requirement is an unlawful act.

**Other Unlawful Acts**
- Consumption on the premises unless pursuant to approved research project and all laws.
- Transfer or sale of marijuana unless pursuant to approved research project and all laws.
Social Impact Plan

Must include:

• The name, telephone number, and email address of the person affiliated with the applicant who is responsible for oversight and implementation of the social impact plan;

• A description of the procedure(s) applicant will use to timely address concerns of residents, registered neighborhood organizations, and businesses within the neighborhood surrounding the licensed premises;

• A list of all registered neighborhood organizations whose boundaries encompass the location of the proposed licensed premises and a description of the applicant’s plan to engage with each registered neighborhood association;

• A description of the applicant’s diversity and inclusion practices in hiring and employment;

• A description of the applicant’s sustainability practices;

• A description of the applicant’s plan to foster participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement in order to positively impact those communities; and

• A description of how members of the public can access the applicant’s social impact plan.
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