
Marijuana Rulemaking Work Group (MRWG)

Meeting #2

June 24, 2021

9:00 – 11:30 a.m.

Topic: Drive-up and Walk-up Windows

Agenda

- I. Introductions
- II. MRWG Purpose and Ground Rules
- III. MRWG Meeting Format and Process
- IV. Goal
- V. Background on state and local rules
- VI. Background on zoning requirements
- VII. Topic Discussion: Drive-up and Walk-up Windows
- VIII. Public Comment



Marijuana Rulemaking Work Group Members

Molly Duplechian (Co-Chair)	Denver Excise and Licenses
Abbey Borchers (Co-Chair)	Denver Excise and Licenses
Councilwoman Kendra Black	City Council District 4
Councilwoman Candi CdeBaca	City Council District 9
Alison Anderson	Seed & Smith Cannabis
Amy Andrle	L'Eagle Services
Bia Campbell	VS Strategies
Brian Snow	Denver Excise and Licenses
Bruce A. Nassau, Ph.D.	Mile High Medical Cannabis, LLC
Erin Spies	Native Roots Cannabis
Jarell Wall	Gentleman Quinns LLC
Joe Sandoval	Good Chemistry
Kevin Gallagher	Apothecary Farms

Marco Cabanillas	Denver Dept. Of Transportation and Infrastructure
Detective Paul Streate	Denver Police Department
Rachel DeVore	Colorado Harvest Company
Reginald Nubine	Denver City Attorney's Office
Ron Bradford	Peak 3, LLC
Sally Vander Veer	Medicine Man
Todd Oltmans	Livwell

MRWG Purpose and Ground Rules

- The **purpose** of the MRWG is to provide input and suggestions to aid Denver's Department of Excise and Licenses in developing agency rules governing secure storage of marijuana and walk-up and drive-through windows.
- The MRWG is **advisory in nature**. Work Group members will review and discuss options for specific regulatory topics and provide comments and recommendations to the City.
 - Final rules will be signed and adopted by the Executive Director of Denver Excise and Licenses.
- Each member of the MRWG is an equal participant in the process and has equal opportunity to voice opinions and contribute ideas.
 - As with all other advisory work groups, the work group will not necessarily be working towards consensus, but rather **we will use everyone's input to develop the necessary rules**.
- MRWG members accept the responsibility to come to the meetings prepared for the discussions.
- MRWG members must commit to treating each other with respect, civility, and courtesy, whether or not they agree with one another's interests and concerns.

MRWG Meeting Format and Process

Work Group Members

- The MRWG meetings will present information for background and pose questions for discussion.
 - Any suggestions provided by the City are for the purposes of initiating and guiding the discussion.
 - The MRWG members may make suggestions in addition to what is being provided.
- MRWG members will be provided with an agenda of what will be discussed in advance of each meeting.
- MRWG members will also be able to submit additional comments in writing.
- Recordings from each meeting will be available to access in the future.
- If a Work Group member has a question or would like to make a comment relevant to the discussion occurring, they are welcome to speak up but should avoid interrupting the presenters or another Work Group member.
 - For the experience of the viewing audience, **please announce your name at the beginning of your statement/question.**
 - If you do not feel as though you are given an opportunity to speak, please use the "raise hand" feature or use the chat.
 - **Chat feature is only available to panelists** to avoid distractions for presenters and work group members.

Public Input

- MRWG meetings are open to the public and can be viewed via Zoom Webinar. Information to view the meeting was distributed via the [Marijuana Information Bulletin](#) and is available on the [Marijuana Laws, Rules, and Regulations website](#).
- Members of the public may send written comments to MarijuanaInfo@denvergov.org. Comments will be accepted until the date of the public rulemaking hearing, which will be scheduled at a later date as part of the rule adoption process.

Discussion Topic: Drive-up and Walk-up Windows

Goals

- Obtain input on requirements related to safety, security, compliance procedures, and signage for drive-up and walk-up windows at medical and retail marijuana stores.
- Requirements should help prevent burglaries, prevent diversion of marijuana to youth, and promote safety.

Background on Existing Rules for Drive-Up and Walk-Up Windows

Marijuana Enforcement Division Rules

2-260 – Changing, Altering, or Modifying Licensed Premises

What Constitutes a Material Change. This Rule does not exempt Licensees from complying with any Local Licensing Authority or Local Jurisdiction requirements regarding changes, alterations, or modifications to the Licensed Premises. Material or substantial changes, alterations, or modifications requiring Division approval include, but are not limited to, the following:

- Any increase or decrease in the total physical size or capacity of the Licensed Premises;
- The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, walk-up window or drive-up window, when such common entryway, doorway, passage, walk-up or drive-up window alters or changes Limited Access Areas, such as the cultivation, harvesting, manufacturing, testing, or sale of Regulated Marijuana within the Licensed Premises; or
- Any physical modification of the Licensed Premises which would require the installation of additional video surveillance cameras. See Rule 3-225 – Video Surveillance.

Background on Existing Rules for Drive-Up and Walk-Up Windows

Marijuana Enforcement Division Rules

5-105 – Medical Marijuana Store: License Privileges

(Similar provision exists for retail marijuana stores in 6-105(J))

Walk-up or Drive-Up Window. A Medical Marijuana Store may serve patients through a walk-up window or drive-up window pursuant to the requirements of this rule.

- **Modification of Premises Required.** Before accepting orders for sales of Medical Marijuana to a patient through either a walk-up window or a drive-up window, a Medical Marijuana Store shall apply for, and obtain approval of, an application for a modification of its Licensed Premises for the addition of a walk-up window or a drive-up window.
- The area immediately outside the walk-up window or drive-up window must be under the Licensee’s possession and control and cannot include any public property such as public streets, public sidewalks, or public parking lots.
- **Order and Identification Requirements.**
 - Prior to accepting an order or Transferring Medical Marijuana to a patient, the Employee Licensee or Owner Licensee must physically view and inspect the patient’s identification and the patient’s registry identification card.
 - The Medical Marijuana Store may accept internet or telephone orders or may accept orders from the patient at the walk-up or drive-up window.
 - All orders received through a walk-up window or drive-up window must be placed by the patient from a menu. The Medical Marijuana Store may not display Medical Marijuana at the walk-up window or drive-up window.

Background on Existing Rules for Drive-Up and Walk-Up Windows

Marijuana Enforcement Division Rules

5-105 – Medical Marijuana Store: License Privileges (cont.)

(Similar provision exists for retail marijuana stores in 6-105(J))

- **Payment Requirements.** Cash, credit, debit, cashless ATM, or other payment methods are permitted for payment for Medical Marijuana at the walk-up window or drive-up window.
- **Video Surveillance Requirements.** For every Transfer of Regulated Marijuana through either a walk-up window or drive-up window, the Medical Marijuana Store’s video surveillance must enable the recording of the patient’s identity (and patient’s vehicle in the event of drive-up window), and must enable the recording of the Licensee verifying the patient’s identification, registry identification card, and completion of the transaction through the Transfer of Regulated Marijuana.
- **Packaging and Labeling Requirements.** A Medical Marijuana Store utilizing a walk-up or drive-up window must ensure that all Medical Marijuana is packaged and labeled in accordance with Rules 3-1010 and Rule 3-1015 prior to Transfer to the patient.
- **Local Restrictions.** Transfers of Regulated Marijuana using a walk-up window or drive-up window are subject to requirements and restrictions imposed by the relevant Local Licensing Authority.
- **Vehicle Prohibited in the Licensed Premises.** A Medical Marijuana Store shall not permit any portion of a vehicle to enter any portion of the Licensed Premises.

Background on Existing Rules for Drive-Up and Walk-Up Windows

Denver Revised Municipal Code

[DMRC 6-208\(a\)](#)

The director shall not issue a local license or approve any material and substantial modification of a licensed premises until the applicant has completed all required inspections and received all necessary permits, including, but not limited to, right-of-way permits, zoning permits, and fire and building permits.

[DRMC 6-209\(a\)\(4\)](#)

All walk-up, drive-up, or curbside pickup services must comply with any applicable zoning, public health, building and fire, transportation and infrastructure, or other local requirements; any additional safety, security, compliance procedures, or required signage established by department rule; and, any other requirements established by the state licensing authority.

Drive-through and Walk-up Facilities in Former Chapter 59 and the Denver Zoning Code

Anna Valdez, Associate City Planner,
Zoning/Development Services

Use Limitations

A. General limitations

- Drive-Through Facilities shall be permitted as accessory to a primary Eating and Drinking Establishment or to a primary Retail Sales, Service, or Repair use only.
- Drive-Through Facilities accessory to a primary Eating and Drinking Establishment shall comply with all applicable use limitations for Eating and Drinking Establishments found in this Article 11. In case of conflict with the use standards stated in this Section specific to Drive-Through Facilities, the standards in this Section shall apply.
- Accessory Drive-Through Facilities shall be sited on a zone lot and constructed, operated, and maintained in compliance with the building form standards allowed in the applicable zone district, and with these use-specific standards.

Use Limitations

B. Site Design Standards

1. Any Drive-Through Facility visible from a public street or from a Residential Zone District shall provide an opaque screen along the visible portion of the drive through queuing and operating lane. Such screen shall at least meet the requirements for screening found in Section 10.5.4.3, Perimeter Surface Parking Lot Landscaping Standards.
2. All parts of any Drive-Through Facility shall be separate from parking circulation aisles.
3. Vehicle access to the site shall not unreasonably interfere with automobile or pedestrian traffic. Queuing lanes shall be adequate to prevent backups onto public streets.
4. This subsection's Drive-Through Facility standards apply only to drive through facilities that commence operations after June 1, 2006.

Use Limitations

C. Drive-Through Facilities Adjacent to a Residential Zone District

1. There shall be no glare from permanent lighting or vehicle headlights projected onto an abutting Residential Zone District. To ensure glare is controlled, all external lights shall have fully shielded fixtures. Light trespass onto adjacent residential uses shall not exceed 0.3 footcandles.
2. No device that amplifies sound shall be so designed or operated that the amplified sound exceeds the City's noise ordinance standards on any private property zone lot located within a Residential Zone District beyond the boundaries of the zone lot on which the Drive-Through Facility is operated.

Use Limitations

3. Any Drive-Through Facility located on a zone lot that is adjacent to a Residential Zone District and which has any portion of the facility located 85 feet or less from the Residential Zone District may only be open during the hours of 5:30 a.m. to 11:00 p.m., Sunday through Thursday, and 5:30 a.m. to midnight Friday and Saturday.
4. This subsection's Drive-Through Facility standards apply only to drive through facilities that commence operations after June 1, 2006.

Use Limitations

D. Drive-Through Facilities in Close Proximity to Rail Transit

1. In all Zone Districts except the Suburban (S-) context Zone Districts, where permitted with limitations, when a Zone Lot is within 1/4 mile of a Rail Transit Station Platform, accessory Drive-Through Facilities are prohibited.
2. In all Suburban (S-) context Zone Districts, where permitted with limitations, when a Zone Lot is within 1/4 mile of a Rail Transit Station Platform, an accessory Drive-Through Facility shall only be established when the primary structure containing the primary use complies with the General or Shopfront building form standards.

Existing Drive-thru Facilities

(Formerly used as eating and drinking establishments, liquor stores, or banks)

- Generally speaking, may continue to use drive-thru facilities.
- Zoning permit review required.
- If legally established, abandonment would not affect the use unless the use is no longer allowed in the district.
- If the existing primary use is non-conforming, abandonment would terminate as it would with any other use.
- Changes to established site or drive-thru configuration could trigger compliance with the 11.10.8. and other limitations or requirements.

Adding a Drive-thru to an Existing Site

- Demonstrate compliance with chosen form standard.
- Zoning permit review process or site development process.
- If the drive-thru form is not available or not conducive to project design, another form may be utilized as long as compliance with form standard can be achieved.
- Changes to established site to add drive-thru will trigger compliance with the limitations in 11.10.8. and possibly other requirements in the Zoning code and/or from other disciplines (such as required landscaping or changes to curb cuts).
- Applicants should consult a design professional before making an application.

New Construction

Form standards:

- Site development plan review required.
- Demonstrate compliance with chosen form standard.
- If the drive thru form is not available or not conducive to project design, another form may be utilized as long as compliance with form standard can be achieved.

Walk-up Windows

- Zoning permit review required.
- Changes to the Primary and Side street facades must comply with transparency requirements.
- Changes to established site to accommodate the walk-up facility will require compliance with general design standards (Article 10, DZC), including pedestrian circulation.

Group Discussion

What additional safety precautions should be required at drive-up and walk-up windows to ensure safety and protection of the customer, store, product, etc.?

- Lighting
- Hours of operation
- Response to intoxicated drivers
- Cash handling procedures
- Other?

What additional security measures should be required at drive-up and walk-up windows?

- Video surveillance – additional vantage points (i.e. capture license plate)
- Securing the window after hours
- Other?

Group Discussion

What compliance procedures should be required for drive-up and walk-up windows?

- Additional ID verification requirements (i.e. ID scanner or timing of ID request)
- Compliance with outdoor advertising requirements
- Other?

What signage should be required for drive-up and walk-up windows?

- You must be 21 or older to purchase marijuana.
- It is against the law to use marijuana while driving.
- It is against the law to drive under the influence of marijuana.
- It is against the law to provide marijuana to anyone under the age of 21.
- Other?



Public Comment

Anyone that would like to speak and provide public comment should use the “**raise hand**” feature on Zoom to indicate they would like to make a public comment.

Each speaker is limited to **two minutes**.

Attendees and members of the public viewing the Work Group meetings may also send written comments to Marijuanainfo@denvergov.org.



Next Steps

- Rule drafting
- Public rulemaking hearing will be scheduled. Stakeholders will be notified of the date and the draft rules will be distributed via the [Marijuana Information Bulletin](#).