

Marijuana Licensing Work Group Meeting #2

May 28, 2020

Attendance:

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

Agenda:

1. Welcome and Introductions
2. MLWG Purpose and Ground Rules
3. MLWG Meeting Format
4. Goals for Implementation
5. Background on Initiative 300 and House Bill 19-1230
6. Hospitality License Types and Establishment Models in State Law; State Law vs. City and County Ordinance
7. Topic #2: Marijuana Hospitality Program
8. Revisit Topic #1: Delivery
9. Public Comment
10. Next Steps

Meeting Notes:

Item	Discussion
Should Denver opt into hospitality, hospitality and sales, and mobile hospitality?	<ul style="list-style-type: none">• Several members recommended opting in to all three license types (hospitality, mobile hospitality, and hospitality and sales).• Several members stated hospitality licenses present good opportunities for equity applicants.• Several members expressed sales are critical to the success of hospitality businesses and most hospitality models are not viable without sales.• One member suggested reserving hospitality licenses for equity applicants.• One member suggested that Denver’s hospitality laws need to be at least as permissive as the state’s laws.• One member questioned how the city would issue licenses in conjunction with the state and whether Designated Consumption Area (DCA) licenses would be required in addition to a city hospitality license and a state hospitality license. The Department said that if City Council does not repeal Initiative 300 (I-300) it would need to find alignment between the state hospitality model and the DCA model created by I-300.• Members discussed whether a supermajority of City Council members would be needed to repeal or amend I-300. A City Attorney’s Office representative said that City Council could amend the ordinance or repeal and replace it but any changes would require a supermajority• Several members expressed that strict location requirements discouraged potential applicants under I-300 and hurt the viability of the business model.• One member suggested hospitality licenses could increase tax revenue and reduce public consumption.• One member said policy should not be based on creating viable business models and encouraged the group to think more about access for people than profitability for businesses. Another member responded that business viability is important to the success of the program and to the ability of equity applicants to benefit from this license type.• One member said the state is eager to work with jurisdictions that opt in to any of the hospitality business models.• One member asked if there is any data to support the claim that hospitality will reduce the prevalence of consumption in parks and public places, and wondered if there will be an increase in enforcement of consumption outside these hospitality businesses. A

	<p>Police Department representative said that enforcement of marijuana consumption is likely to continue to be complaint based.</p>
<p>What barriers to entry exist for each of the Marijuana Hospitality Establishments? What should the equity considerations be?</p>	<ul style="list-style-type: none"> • One member asked whether registered neighborhood organization or business improvement district support would be required for these businesses. The Department said that at a minimum, it intends to require a needs and desires hearing for hospitality businesses. • One member recommended that for every license issued to a non-equity applicant, one would be issued to an equity applicant. The member also pointed to Zoning and proximity restrictions as barriers to entry, especially the 1,000 foot setback from childcare facilities. • Several members expressed that a license cap is a barrier to entry. • One member disagreed with the one-for-one licensing ratio and suggested a different ratio might promote a healthier market. The member also said that a license cap will make the licenses more competitive and inflate value of the licenses. The member suggested that having more hospitality businesses will develop more consumer and patient interest and normalize the business model. • One member expressed that it is very expensive to obtain legal representation to do a needs and desires hearing, which could be a barrier to entry. The member recommended not requiring public hearings for mobile hospitality businesses, which the member said may have less impact on neighborhoods. • One member said HVAC and odor control requirements can be very expensive and may present barriers to entry.
<p>What should be the hours of operation for Marijuana Hospitality Establishments?</p>	<ul style="list-style-type: none"> • The Department said that the vast majority of licenses that require hearings do not have opposition, and most of those that do end up resulting in a good neighbor agreement. • One member said the ability to stay open until 2:00 a.m. on weekends is imperative for businesses, but that weekday business hours could be more flexible. The member also mentioned sales could end at 10:00 p.m. to align with marijuana store hours, but that consumption should be allowed to continue until 2:00 a.m. Another member expressed support for the suggestion to cease sales at hospitality & sales establishments at 10:00 p.m. • Several members advocated for aligning hours of operation with state law and said businesses could work with neighborhood organizations to establish hours that work for the neighborhood. The Department expressed that good neighbor agreements help the licensee start off on the right foot with the neighborhood, limiting conflicts down the road.

	<ul style="list-style-type: none">• One member asked representatives from Denver Public Health and Denver Public Schools to address the impact of operating hours on youth.• One member said hours of operation should be considered a matter of increasing access and use; the member said shorter hours of operation tend to be associated with lower rates of use across multiple populations.
What methods of consumption should be allowed at Hospitality Establishments?	<ul style="list-style-type: none">• One member asked if smoking and vaping were allowed, would there be regulation regarding ventilation? The Department said that there would be a conversation around what ventilation and odor requirements would be and the Department would look to existing ventilation rules for similar businesses.• One member added that state law and rules have ventilation requirements, and that all consumption must cease while first responders are on site.• Regarding smoking and vaping, one member said the city should consider the health implications for consumers and employees. The member added that many ventilation measures are insufficient to mitigate health risks.• Several members said indoor smoking and vaping must be allowed in order for hospitality to be a viable business model.• One member said the ventilation requirements in I-300 are sufficient.• One member said the discussion should focus on public health and not business models. The member said allowing indoor smoking or vaping could be in the interest of public health because it might reduce the number of people smoking in parks or in public spaces in view of children.• One member asked if the use of shared devices would be allowed and if that could be harmful to consumers. The Department said that under the current DCA regulations, shared devices are allowed with certain sanitation requirements.• One member said shared devices reduce costs for consumers, who otherwise may not be able to afford the necessary equipment.• One member asked if business owners will be responsible for monitoring intoxication, and whether there will be liability for business owners related to over-consumption. A City Attorney's Office representative said that statutory dram shop liability does not currently apply to marijuana consumption businesses, so liability would likely be determined by civil litigation.• One member mentioned delayed impairment caused by edibles and said the city should be thoughtful about whether edibles are

	<p>allowed in consumption businesses. The member also suggested the city consider potency limits.</p> <ul style="list-style-type: none"> • The Department asked if consumers are interested in consuming edibles at hospitality establishments. One member responded that edibles were more popular when I-300 was first implemented, but that all forms of consumption should be allowed. The member said that those who currently operate hospitality establishments hand out educational materials, discuss safe consumption with customers, and monitor intoxication. • Members discussed the statutory-required responsible vendor training for marijuana hospitality businesses.
<p>What location or proximity requirements should apply to Marijuana Hospitality Establishments?</p>	<ul style="list-style-type: none"> • Several members advocated for proximity restrictions that mirror alcohol or tobacco. Some members also suggested use of alcohol and tobacco is more dangerous than the use of marijuana, and one member suggested focusing on problematic use of marijuana. • One member said there is a relationship between outlet density and increased consumption, as seen with alcohol sales, tobacco sales and fast food restaurants. The member said public health officials are starting to see this trend with marijuana businesses, too. The member also said a marijuana business’s proximity to a school or residential area could increase normalization, which might increase youth use. The member noted the data does not show a strong relationship between a marijuana business’s proximity to schools and residential areas and youth use, but that it is something to be cautious about. • One member advocated to have the proximity requirements be more aligned with those for alcohol establishments. • One member noted that alcohol establishments have fewer proximity requirements than marijuana does but then there is also data that shows that youth alcohol use rates are higher than youth marijuana use rates. • One member said new Healthy Kids Colorado Survey (HKCS) data may show an increase in marijuana use by youth. The member noted the data is not publicly available yet, but a preliminary analysis shows an increase in youth marijuana use. The member noted increased density and advertising should also be considered. • The Department asked when the HKCS data will be publicly available on the state’s website. One member responded that it will be available in June or July. • One member questioned whether the increase could be attributed to a lag in the number of students reporting marijuana use. Another member responded that, anecdotally, students say they are

underreporting on the survey because they are afraid it is not truly anonymous, although it is.

- One member said it is important that HKCS data be made publicly available before it is used to guide policy and that stakeholders should have an opportunity to analyze the data.
- One member noted the cost of updating older buildings to meet current building codes is prohibitive; the member also noted that many of the available locations are in buildings that need these updates. Another member agreed and said if marijuana businesses could be in more or different zone use districts, they may be able to find newer buildings that need fewer upgrades.
- One member expressed that current setbacks for marijuana businesses are too restrictive.
- One member suggested that as long as cannabis use is not visible and odor is controlled, there could be data that makes a case for reduced proximity restrictions.
- One member asked what role proximity to visible marijuana use plays in use rates, and expressed that consumption should not be visible or detectable by smell to the area around it.
- One member said proximity of marijuana businesses to certain uses plays a role in normalizing cannabis use, but that there may be ways to mitigate issues related to proximity, pointing to advertising and signage as an example.
- One member cautioned against confusing causation and correlation. The member said more youth may be reporting marijuana use for the first time because they feel more comfortable telling the truth.
- One member expressed that there are not enough options for places to legally consume marijuana, and that it may actually reduce youth exposure to marijuana if adults are not consuming marijuana at home.
- The Department asked, depending on the outcome of the HKCS data, what recommendations work group members would make for proximity restrictions.
- One member expressed that reducing setbacks to 750 or 800 feet would help make more and better locations available.
- One member recommended looking at advertising restrictions, and said alcohol companies are allowed to do more advertising, which the member suggested results in higher consumption rates.
- One member asked whether data would show if proximity to marijuana stores results in higher rates of youth marijuana use. The member said the conversation is assuming proximity encourages them to use marijuana and wondered where youth are getting marijuana.

	<ul style="list-style-type: none"> • One member cautioned against “regulating (businesses) out of existence” with rules that are too restrictive. The member said the state’s rules are comprehensive for advertising. • One member responded and said the HKCS results show what percentage of youth get marijuana from adults. The member also said youth use and consumption methods are tracking with sales trends in the legal marijuana market, pointing to an increase in the percentage of youth who report dabbing. • One member also noted that the state Marijuana Enforcement Division doubled its number of sting operations targeting underage sales last year, and noted that the industry has a 97% pass rate. • One member said that it is important to have a way to monitor youth use and put additional prevention measures in place when data shows they are needed. • One member said that the state has done a good job of regulating the industry and that there is no reason to think they will not do a good job regulating hospitality businesses.
<p>Should there be any additional restrictions on sales limits in Hospitality & Sales Establishments?</p>	<ul style="list-style-type: none"> • There were no comments on sales limits during the meeting.
<p>Should Denver permit Retail Food Establishments (RFE’s) to operate Marijuana Hospitality Establishments?</p>	<ul style="list-style-type: none"> • One member said that the food service component is important to business viability and normalization of marijuana use. • One member asked that the group consider patient, consumer, and visitor interest on all topics. • One member noted that liquor licensees will not be able to obtain hospitality licenses, but that hospitality in retail food establishments should be allowed.
<p>Should outdoor consumption areas be allowed for Marijuana Hospitality Establishments?</p>	<ul style="list-style-type: none"> • There were no comments on outdoor consumption areas during the meeting.