

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

3 SERIES OF 2021

COUNCIL BILL NO. CB21-

COMMITTEE OF REFERENCE:

4 Business Development

5 **A BILL**

6 **For an ordinance amending the alcohol beverages and retail marijuana chapter of**
7 **the Denver Revised Municipal Code to allow for the licensing and operation of**
8 **marijuana hospitality businesses and retail marijuana hospitality and sales**
9 **businesses within the City.**

10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** Article V of Chapter 6 shall be amended by adding the language underlined and
12 striking the language stricken to read as follows:

13 **Sec. 6-204. – Defined terms.**

14 Except as provided below, the definitions set forth in subsection 16(2) of article XVIII of the
15 Colorado Constitution and the definitions set forth in the Colorado Marijuana Code, shall apply
16 equally to this article V. In addition, the following terms shall have the meanings respectively
17 assigned to them:

18 (12) *Liquefied petroleum gas (LPG)* means a material which is composed
19 predominantly of the following hydrocarbons or mixtures of them: propane, propylene, butane
20 (normal butane or isobutane) and butylene.

21 ~~(132)~~ *Location* means a structure(s) or building(s) identified by a distinct street
22 address assigned by the city in accordance with article IV of chapter 49 of this Code. To the extent
23 the structure(s) or building(s) consists of separately described "units," "suites," "rooms," "buildings,"
24 or other similar subdivisions, the structure(s) or building(s) shall nevertheless be counted as one (1)
25 location.

26 ~~(143)~~ *Neighborhood of undue concentration of cultivation facility locations* means the
27 five (5) statistical neighborhoods where the highest number of licensed medical and retail marijuana
28 cultivation facility locations exist, as calculated no more than 90 days after the effective date of this
29 article V for 2021, and by December 31 of each year thereafter. To the extent there is a tie between
30 two (2) or more statistical neighborhoods with the statistical neighborhood having the fifth most
31 licensed locations, then all such neighborhoods shall be treated as neighborhoods of undue
32 concentration of cultivation facility locations.

33 ~~(154)~~ *Neighborhood of undue concentration of marijuana store locations* means the

1 five (5) statistical neighborhoods where the highest number of licensed medical and retail marijuana
2 store locations exist, as calculated no more than 90 days after the effective date of this article V for
3 2021, and by December 31 of each year thereafter. To the extent there is a tie between two (2) or
4 more statistical neighborhoods with the statistical neighborhood having the fifth most licensed
5 locations, then all such neighborhoods shall be treated as neighborhoods of undue concentration
6 of marijuana store locations.

7 (165) *Party in interest* means any of the following:

8 (176) *Person* means any firm, corporation, association, or other organization acting
9 as a group or unit as well as a natural person. It shall also include an executor, administrator, trustee,
10 receiver, or other representative appointed according to law.

11 (187) *Private residence* includes, but is not limited to, a private premise where a
12 person lives such as a private dwelling, a place of habitation, a house, a multi-dwelling unit for
13 residential occupants, or an apartment unit. Private residence does not include any premises
14 located at a school, on the campus of an institution of higher education, public property, alcohol or
15 drug treatment facility, or any commercial property unit including, but not limited to, offices or retail
16 space.

17 (198) *School* means a public or private preschool, elementary school, middle school,
18 junior high school, or high school.

19 (20) Smoking shall have the same meaning as set forth in 25-14-203, C.R.S., as
20 amended.

21 (219) *Social equity applicant* means a person who meets the following criteria:

22 (2220) *Statistical neighborhood* means the geographical neighborhood boundaries
23 established by the City and County of Denver in 1970 in conjunction with the Community Renewal
24 Program.

25 **Sec. 6-205. – Licensed or permit required; classes of licenses authorized.**

26 (b) Classes of licenses – authorized. For the purpose of regulating the cultivation,
27 manufacture, research and development, testing, transportation, storage, sale or distribution,
28 offering for sale, ~~and delivery,~~ and consumption of medical or retail marijuana, the director may
29 issue a local license or permit of any of the following classes, subject to the provisions and
30 restrictions provided in this article V and the Colorado Marijuana Code:

- 31 (1) Medical marijuana store license;
32 (2) Medical marijuana cultivation facility license;
33 (3) Medical marijuana products manufacturer license;

- 1 (4) Medical marijuana testing facility license;
- 2 (5) Medical marijuana transporter license;
- 3 (6) Medical marijuana off-premises storage facility permit;
- 4 (7) Marijuana research and development license;
- 5 (8) Medical marijuana delivery permit;
- 6 (9) Retail marijuana store license;
- 7 (10) Retail marijuana cultivation facility license;
- 8 (11) Retail marijuana testing facility license;
- 9 (12) Retail marijuana transporter license;
- 10 (13) Retail marijuana off-premises storage facility permit; and
- 11 (14) Retail marijuana delivery permit-;
- 12 (15) Marijuana hospitality business license; and
- 13 (16) Retail marijuana hospitality and sales business license.

14 **Sec. 6-217. – ~~Reserved~~ Marijuana hospitality business license.**

15 (a) *Marijuana hospitality businesses—authorized.* Beginning July 1, 2021, a local marijuana
16 hospitality business license may be issued to allow for the on-premises consumption of marijuana
17 at either a fixed location or mobile premises, subject to the provisions of this article V and the
18 Colorado Marijuana Code.

19 (b) *Licensing requirements-all locations.* In addition to the provisions applicable to all
20 licenses, all marijuana hospitality business licensees shall comply with the following provisions:

21 (1) A marijuana hospitality business licensee shall not permit the use or consumption
22 of regulated marijuana between the hours of 2:00 a.m. and 7:00 a.m. daily.

23 (2) A marijuana hospitality business licensee shall not sell, transfer, or distribute, with
24 or without remuneration, or allow the sale, transfer, or distribution, with or without remuneration, of
25 regulated marijuana on the licensed premises.

26 (3) A marijuana hospitality business licensee shall not engage in or allow any activity
27 that would require an additional license under this article, including but not limited to planting,
28 growing, harvesting, storing, drying, trimming, processing or manufacturing regulated marijuana on
29 the licensed premises. Nothing in this subsection prohibits a marijuana hospitality business from
30 storing marijuana consumer waste on the licensed premises, in compliance with state law.

31 (4) A marijuana hospitality business licensee shall not allow any person to consume
32 or display regulated marijuana outside of a consumption area or any place that is visible from outside
33 of the consumption area.

1 (5) A marijuana hospitality business may allow smoking of marijuana indoors.
2 Marijuana smoking indoors and outdoors must occur in compliance with an Odor Control Plan filed
3 pursuant to section 4-10 of this Code, and approved by the department of public health and
4 environment.

5 (6) A marijuana hospitality business licensee shall not use or allow any other person
6 to use liquified petroleum gas within a consumption area.

7 (7) A marijuana hospitality business licensee shall ensure that all areas of ingress and
8 egress to the consumption areas are clearly identified and posted with signs and warnings required
9 by state law.

10 (8) A marijuana hospitality business licensee shall not allow on-duty employees of the
11 business to consume any marijuana in the licensed premises of the business.

12 (9) A marijuana hospitality business licensee shall not allow the consumption of
13 alcohol or smoking of tobacco or tobacco products on the licensed premises.

14 (10) A marijuana hospitality business licensee shall not allow any person under the
15 age of twenty-one (21) into the licensed premises.

16 (11) A marijuana hospitality business licensee shall not permit the use or consumption
17 of marijuana by a patron who displays any visible signs of intoxication.

18 (12) If an emergency requires law enforcement, firefighters, emergency medical
19 service providers, or other public safety personnel to enter a marijuana hospitality business, a
20 marijuana hospitality business licensee shall ensure that all employees and patrons of the business
21 cease all consumption and other activities until such personnel have completed their investigation
22 or services and have left the licensed premises.

23 (c) *Licensing requirements—mobile premises.* In addition to the requirements for marijuana
24 hospitality businesses at a fixed location, marijuana hospitality businesses on mobile premises shall
25 comply with the following provisions:

26 (1) A marijuana hospitality business licensee shall not permit the consumption of
27 marijuana on the mobile premises if the motor vehicle is stopped, standing, or parked for more than
28 30 minutes.

29 (2) A marijuana hospitality business shall file a route log with the department
30 identifying the origin and destination all routes, and all stops in between the origin and the
31 destination, at least seven (7) business days prior to the scheduled departure. A marijuana
32 hospitality business shall not change or deviate from the route log without notifying the department
33 at least seven (7) business days prior to scheduled departure. Identified origins, destinations, and

1 stops may not include any of the locations identified in subsection (d) of this section 6-217.

2 (3) A marijuana hospitality business shall make the route log available to any city
3 inspector or police officer upon request.

4 (d) Proximity restrictions. No marijuana hospitality business license shall be issued if the
5 proposed location is within 1,000 feet of one of more of the following locations:

6 (1) Any school, with the distance computed by direct measurement in a straight line
7 from the nearest legal parcel line of the land used for the school to the nearest external portion of
8 the building in which the marijuana hospitality business is proposed to be located.

9 (2) Any child care establishment, with the distance computed by direct measurement
10 in a straight line from the nearest legal parcel line of the land used for the child care establishment
11 to the nearest external portion of the building in which the marijuana hospitality business is proposed
12 to be located.

13 (3) Any other marijuana hospitality business licensed pursuant to this article V, with
14 the distance computed by direct measurement in a straight line from the nearest external portion of
15 the building within which one (1) marijuana hospitality business is located to the nearest external
16 portion of the building in which the other marijuana hospitality business is proposed to be located.
17 In the event that the department receives two or more applications for a marijuana hospitality
18 business with proposed locations within one thousand (1,000) feet of each other, the director shall
19 act upon only the first complete application received and shall not issue a license to all subsequent
20 applications.

21 (4) Any alcohol or drug treatment facility, with the distance computed by direct
22 measurement in a straight line from the nearest external portion of the building in which the alcohol
23 or drug treatment facility is located to the nearest external portion of the building in which the
24 marijuana hospitality business is proposed to be located.

25 (5) Any city-owned recreation center, with the distance computed by direct
26 measurement in a straight line from the nearest external portion of the building in which the
27 recreation center is located to the nearest external portion of the building in which the marijuana
28 hospitality business is proposed to be located.

29 (6) Any city-owned outdoor pool, with the distance computed by direct measurement
30 in a straight line from the fence or barrier of the outdoor pool to the nearest external portion of the
31 building in which the marijuana hospitality business is located.

32 (7) The proximity restrictions identified in this subsection (d) shall not apply to
33 marijuana hospitality business licenses with a mobile premises.

1 (e) Location restrictions. No marijuana hospitality business license shall be issued at one or
2 more of the following locations:

3 (1) The licensed premises of another medical or retail marijuana business license. The
4 marijuana hospitality business and other marijuana business shall provide separate ingress and
5 egress to each licensed premises.

6 (2) The licensed premises of any business containing a business licensed pursuant to
7 Articles 3, 4, or 5 of Title 44 of the Colorado Revised Statutes. The marijuana hospitality business
8 and other marijuana business shall provide separate ingress and egress to each licensed premises,
9 and shall comply with all state laws.

10 (3) Any location deemed public property and owned by the City.

11 (4) Any location that is situated in a residential zone district as defined by the Denver
12 Zoning Code or Former Chapter 59.

13 (5) The proximity restrictions identified in this subsection (e) shall not apply to
14 marijuana hospitality business licenses with a mobile premises.

15 (f) Public hearing—required. A public hearing in compliance with section 6-209 shall be
16 required prior to the issuance of a marijuana hospitality business license at a fixed location, but shall
17 not be required for a marijuana hospitality business at a mobile premise. The requirements for public
18 notice, posting, publication, conduct, results of investigation, and decision of the director shall be
19 the same as those for medical and retail marijuana stores.

20 **Sec. 6-218. – Reserved Retail marijuana hospitality and sales business license.**

21 (a) Licensing requirements. Beginning July 1, 2021, a local retail marijuana hospitality and
22 sales business license may be issued to allow for the sale and on-premises consumption of
23 marijuana at a fixed location, subject to the provisions of this article V and the Colorado Marijuana
24 Code. In addition to the provisions applicable to all licenses, all retail marijuana hospitality and sales
25 business licensees shall comply with the following provisions:

26 (1) A retail marijuana hospitality and sales business licensee shall not permit the sale,
27 transfer, distribution, use, or consumption of regulated marijuana between the hours of 2:00 a.m.
28 and 7:00 a.m. daily.

29 (2) A retail marijuana hospitality and sales business licensee shall not engage in or
30 allow any activity that would require an additional license under this article, including but not limited
31 to planting, growing, harvesting, drying, trimming, processing or manufacturing regulated marijuana
32 on the licensed premises.

33 (3) A retail marijuana hospitality and sales business licensee shall not allow any

1 person to consume or display regulated marijuana outside of a consumption area or any place that
2 is visible from outside of the consumption area.

3 (4) A retail marijuana hospitality and sales business licensee may allow smoking of
4 marijuana indoors. Marijuana smoking indoors and outdoors must occur in compliance with an Odor
5 Control Plan filed pursuant to section 4-10 of this Code and approved by the department of public
6 health and environment.

7 (5) A retail marijuana hospitality and sales business licensee shall not use or allow
8 any other person to use liquified petroleum gas within a consumption area.

9 (6) A retail marijuana hospitality and sales business licensee shall ensure that all
10 areas ingress and egress to the consumption areas are clearly identified and posted with signs and
11 warnings required by state law.

12 (7) A retail marijuana hospitality and sales business licensee shall not allow on-duty
13 employees of the business to consume any marijuana in the licensed premises of the business.

14 (8) A retail marijuana hospitality and sales business licensee shall not allow the
15 consumption of alcohol or smoking of tobacco or tobacco products on the licensed premises.

16 (9) A retail marijuana hospitality and sales business licensee shall not allow any
17 person under the age of twenty-one (21) into the licensed premises.

18 (10) A retail marijuana hospitality and sales business licensee shall not permit the use
19 or consumption of marijuana by a patron who displays any visible signs of intoxication.

20 (11) A retail marijuana hospitality and sales business licensee shall not transfer, sell,
21 or otherwise distribute more regulated marijuana in a single transaction to a consumer than the
22 lawful amounts related to possession and sale set forth in state law. A single transaction includes
23 multiple transfers, sales, or distributions to the same consumer during the same business day where
24 the medical or retail marijuana store employee knows or reasonably should know that such transfer,
25 sale, or distribution would result in that consumer possessing or being sold more than the amounts
26 set forth in state law.

27 (12) If an emergency requires law enforcement, firefighters, emergency medical
28 service providers, or other public safety personnel to enter a retail marijuana hospitality and sales
29 business, a retail marijuana hospitality and sales business licensee shall ensure that all employees
30 and patrons of the business cease all consumption and other activities until such personnel have
31 completed their investigation or services and have left the licensed premises.

32 (b) Proximity restrictions. No retail marijuana hospitality and sales business license shall be
33 issued if the proposed location is within 1,000 feet of one of more of the following locations:

1 (1) Any school, with the distance computed by direct measurement in a straight line
2 from the nearest legal parcel line of the land used for the school to the nearest external portion of
3 the building in which the retail marijuana hospitality and sales business is proposed to be located.

4 (2) Any child care establishment, with the distance computed by direct measurement
5 in a straight line from the nearest legal parcel line of the land used for the child care establishment
6 to the nearest external portion of the building in which the retail marijuana hospitality and sales
7 business is proposed to be located.

8 (3) Any other retail marijuana hospitality and sales business licensed pursuant to this
9 article V, with the distance computed by direct measurement in a straight line from the nearest
10 external portion of the building within which one (1) retail marijuana hospitality and sales business
11 is located to the nearest external portion of the building in which the other retail marijuana hospitality
12 and sales business is proposed to be located. In the event that the department receives two or more
13 applications for a retail marijuana hospitality and sales business with proposed locations within one
14 thousand (1,000) feet of each other, the director shall act upon only the first complete application
15 received and shall not issue a license to all subsequent applications.

16 (4) Any alcohol or drug treatment facility, with the distance computed by direct
17 measurement in a straight line from the nearest external portion of the building in which the alcohol
18 or drug treatment facility is located to the nearest external portion of the building in which the retail
19 marijuana hospitality and sales business is proposed to be located.

20 (5) Any city-owned recreation center, with the distance computed by direct
21 measurement in a straight line from the nearest external portion of the building in which the
22 recreation center is located to the nearest external portion of the building in which the retail marijuana
23 hospitality and sales business is proposed to be located.

24 (6) Any city-owned outdoor pool, with the distance computed by direct measurement
25 in a straight line from the fence or barrier of the outdoor pool to the nearest external portion of the
26 building in which the retail marijuana hospitality and sales business is located.

27 (c) Location restrictions. No retail marijuana hospitality and sales business license shall be
28 issued at one or more of the following locations:

29 (1) Any location containing a medical or retail marijuana store license.

30 (2) The licensed premises of another medical or retail marijuana business license. The
31 marijuana hospitality business and other marijuana business shall provide separate ingress and
32 egress to each licensed premises.

33 (3) The licensed premises of any business containing a business licensed pursuant to

1 Articles 3, 4, or 5 of Title 44 of the Colorado Revised Statutes. The marijuana hospitality business
2 and other marijuana business shall provide separate ingress and egress to each licensed premises,
3 and shall comply with all state laws.

4 (4) Any location deemed public property and owned by the City.

5 (5) Any location that is situated in a residential zone district as defined by the Denver
6 Zoning Code or Former Chapter 59.

7 (d) Public hearing—required. A public hearing in compliance with section 6-209 shall be
8 required prior to the issuance of a retail marijuana hospitality business and sales license. The
9 requirements for public notice, posting, publication, conduct, results of investigation, and decision
10 of the director shall be the same as those for medical and retail marijuana stores.

11 **Sec. 6-222. - Term of licenses; renewals.**

12 (b) *Cease operations—required.* Except where the director has received a complete renewal
13 application along with the requisite fees, it shall be unlawful for any person to manufacture, test,
14 consume, receive orders for, sell, distribute, transfer, transport, or otherwise remove cannabis from
15 the licensed premises of a medical or retail marijuana business after the expiration date recorded
16 upon the face of any local license issued pursuant to this article V for that location.

17 (e) *Renewal hearing.* The director may set a hearing on the renewal of a medical or retail
18 marijuana business application in accordance with the requirements of the Colorado Marijuana
19 Code and chapter 32 of this Code if:

20 (2) The reasonable requirements of the neighborhood and the desires of the adult
21 inhabitants as evidenced by petitions, remonstrances, or otherwise, or the number and availability
22 of other medical or retail marijuana stores, marijuana hospitality business licenses, or retail
23 marijuana hospitality and sales business licenses in or near the neighborhood under consideration,
24 indicate that a medical or retail marijuana store license, marijuana hospitality license, or retail
25 marijuana hospitality and sales business license of the same type should not be renewed;

26 **Sec. 6-223. - Causes for denial.**

27 (a) In addition to the grounds set forth in the Colorado Marijuana Code and chapter 32 of this
28 Code, any application submitted pursuant to this article V, shall be denied if:

29 (2) The applicant or licensee fails to prove by a preponderance of the evidence that
30 the reasonable requirements of the neighborhood and the desires of the adult inhabitants therein
31 support the issuance of a medical or retail marijuana store license, marijuana hospitality business
32 license, or retail marijuana hospitality and sales business license and the issuance of any such
33 license would not adversely affect the public health, welfare, or safety of the neighborhood or would

1 create a neighborhood of undue concentration.

2

3 **Section 2.** Article II of Chapter 4 shall be amended by deleting the words stricken and adding
4 the language underlined to read as follows:

5 **Sec. 4-10. - Nuisance.**

6 (a) To prevent and control nuisance odors, an odor control plan shall be submitted to the
7 Manager describing the odor(s), if any, originating or anticipated to originate at the premises and
8 the control technologies to be used to prevent such odor(s) from leaving the premises in any of the
9 following occur:

10 (3) If any person engages in one (1) or more of the following activities:

11 a. Pet food manufacturing;

12 b. Marijuana growing, processing, ~~or manufacturing~~, or consumption as
13 provided in Chapter 6;

14 c. Rendering and meat byproduct processing;

15 d. Asphalt shingle and coating materials manufacturing;

16 e. Petroleum refining;

17 f. Sewage treatment;

18 g. Wood preservation;

19 h. Any other activity determined by the board through a rulemaking to cause,
20 or be likely to cause, nuisance odors.

21

22 **Section 3.** Article II of Chapter 33 shall be amended by deleting the words stricken and
23 adding the language underlined to read as follows:

24 (b) Application and licensee fees for retail marijuana businesses, retail marijuana off-
25 premises storage facilities, and retail marijuana delivery permits shall be as follows:

26 (1) Application fee for marijuana hospitality business and retail marijuana hospitality
27 and sales business \$1,000.000

28 (24) Application fee for retail marijuana off-premises storage facility\$500.00.

29 (32) Annual license fee for retail marijuana businesses:

30 a. Social equity licensees\$1,500.00.

31 b. Non-social equity licensees3,000.00.

32 (4) Annual license fee for marijuana hospitality business and retail marijuana
33 hospitality and sales business\$2,000.00.

- 1 (~~53~~) Annual license fee for retail marijuana off-premises storage facility:
- 2 a. Social equity licensees\$1,500.00.
- 3 b. Non-social equity licensees3,000.00.
- 4 (~~64~~) Criminal background check feeactual costs.
- 5 (~~75~~) Transfer of ownership fee\$250.00, plus actual cost of background check.
- 6 (~~86~~) Change of location fees:
- 7 a. Retail marijuana stores, marijuana hospitality businesses, and retail
- 8 marijuana hospitality and sales businesses\$1,500.00.
- 9 b. All other retail marijuana business licenses1,000.00.
- 10 (~~97~~) Modification of premises\$300.00.

14 COMMITTEE APPROVAL DATE:
 15 MAYOR-COUNCIL DATE:
 16 PASSED BY THE COUNCIL: _____, 2021
 17 _____ - PRESIDENT
 18 APPROVED: _____ - MAYOR _____, 2021
 19 ATTEST: _____ - CLERK AND RECORDER,
 20 EX-OFFICIO CLERK OF THE
 21 CITY AND COUNTY OF DENVER

22 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2021; _____, 2021
 23 PREPARED BY: Reginald Nubine, Assistant City Attorney
 24 DATE: _____, 2021

25 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
 26 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
 27 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
 28 3.2.6 of the Charter.

29 Kristin Bronson, Denver City Attorney
 30 BY: _____, Assistant City Attorney DATE: _____, 2021
 31