

Updates to Denver Marijuana Code

Excise and Licenses
Office of Marijuana Policy

FINGOV Meeting
March 2, 2021

Legislation Summary

Bill	Topic	Details
For March 2, 2021 FINGOV action		
1	Omnibus Bill	<ul style="list-style-type: none"> • Social Equity • Changes to existing licenses • Marijuana Delivery <ul style="list-style-type: none"> • Revises Denver’s Marijuana Code provisions using an equity lens and creates opportunities for Social Equity Applicants • Aligns Denver’s Marijuana Code provisions with the Colorado Marijuana Code and state rules • Modifies distribution of existing store and cultivation licenses by removing the location cap and location lottery requirements • Creates a Denver Marijuana Delivery Program
2	Bill to Enact Marijuana Hospitality Program	<ul style="list-style-type: none"> • Marijuana Consumption <ul style="list-style-type: none"> • Creates a Denver Marijuana Hospitality Program to allow for lawful marijuana consumption establishments
For future action (upon passage of new Hospitality Program)		
3	Bill to Repeal Cannabis Consumption Pilot Program	<ul style="list-style-type: none"> • Marijuana Consumption • Cleanup <ul style="list-style-type: none"> • Repeals citizen-initiated consumption establishment ordinance after enactment of a Denver Marijuana Hospitality Program

How did we get to this proposal?



Outreach and Research

Outreach

- National outreach, both formally at the [Denver Marijuana Management Symposium](#) and informally with periodic inter-jurisdiction update calls
- State outreach via the [Marijuana Enforcement Division Rulemaking Workgroups](#) for new license types
- Community outreach with local groups such as the [Black Cannabis Equity Initiative](#), [The Color of Cannabis](#), and [Denver NAACP](#)
- Early stakeholder outreach with the informal Cannabis Community Equity Committee and individual meetings with dozens of interested citizens

Research

- Monitored, analyzed, and compared equity programs in other cities and states
- Commissioned the Denver [Marijuana Business and Employment Opportunity Study](#) to inform policy. The study was conducted in 2019 and released in 2020.

Legislative Planning

- In 2020, the Department convened the [Marijuana Licensing Work Group \(MLWG\)](#) made up of social equity experts, Denver elected officials, city and state regulatory agency representatives, law enforcement, industry stakeholders and home delivery industry representatives
- Meetings covered delivery, hospitality, equity, and other changes to the marijuana licensing code.
- Proposals were presented at [five public stakeholder feedback sessions](#) between December 2020- February 2021 with opportunities for public and written comment.

For complete information regarding all outreach conducted, please see the [2021 Marijuana Legislation Outreach Report](#).

Omnibus Bill

What would this bill do?

Focuses on Equity

- Revises Denver's Marijuana Code provisions using an Equity Lens and creates opportunities for Social Equity Applicants

Aligns Denver with State


- Aligns Denver's code provisions with the format of the Colorado Marijuana Code and state rules
- Aligns Denver's regulations with the state unless stronger protections are needed*

Reimagines License Distribution

- Replaces the Location Cap and Location Lottery requirements with licensing exclusivity for Social Equity Applicants

Authorizes Marijuana Delivery

- Creates a Denver Marijuana Delivery Program with exclusive opportunities for Social Equity Applicants

*stronger local protections are marked with a  symbol in this presentation

Denver's Proposed Equity Program

Why the focus on Equity in Marijuana Regulation?

Effects of Federal Policy

- “The War on Drugs” began with the criminalization of marijuana in 1970 and resulted in decades of arrests and criminal convictions.
- Arrests and convictions for drug offenses have overwhelmingly negative impacts on a person’s economic, educational, and health-related opportunities
- Evidence has shown that these policies have been enforced in a discriminatory manner.



Effects of Early State Policy

- Initial laws legalizing cannabis were considered the equitable solution at the time.
- Being the first state to legalize recreational marijuana, the federal/state conflict created a need for significant technical expertise and use of experts, consultants, and attorneys.
- Individuals with certain convictions faced barriers to working in the industry and ownership in Colorado.



Effects of Early Local Policy

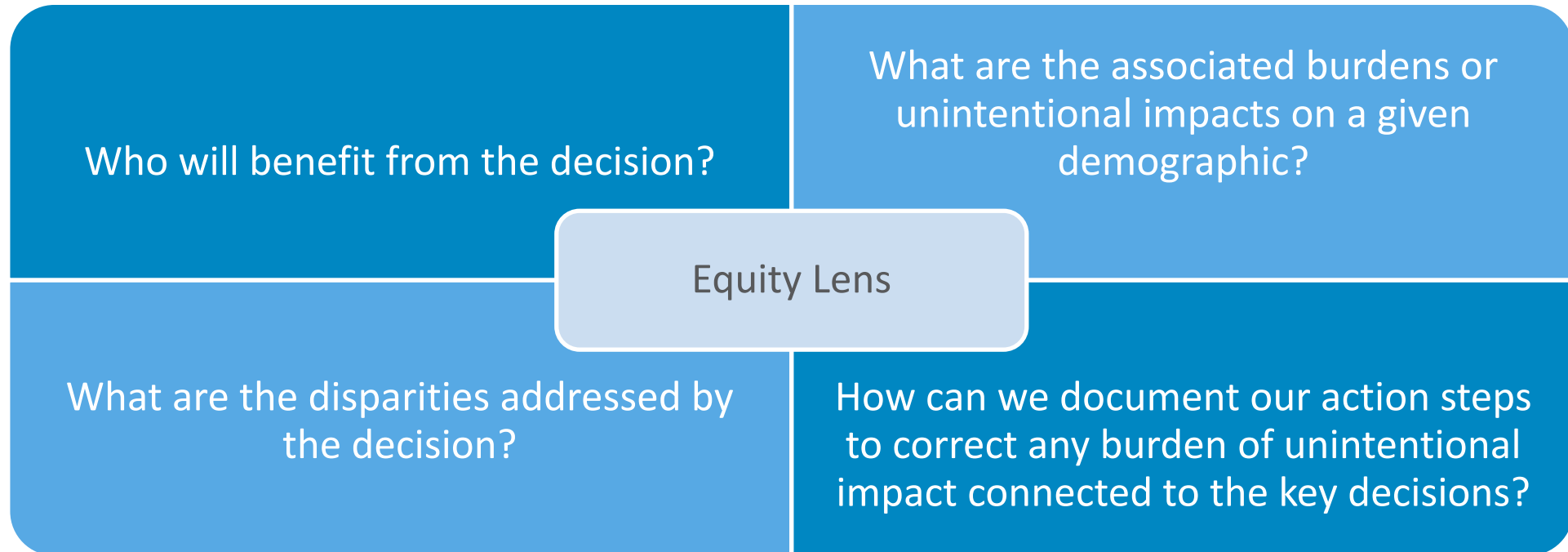
- Vertical integration and lease requirements resulted in high entry costs in Denver, where cultivations must be indoors and real estate is competitive.
- Historic inequities prevented certain Denverites from entering the market.
- Early policies also led to saturation of marijuana businesses in certain neighborhoods.



Goals for Equitable New Policies

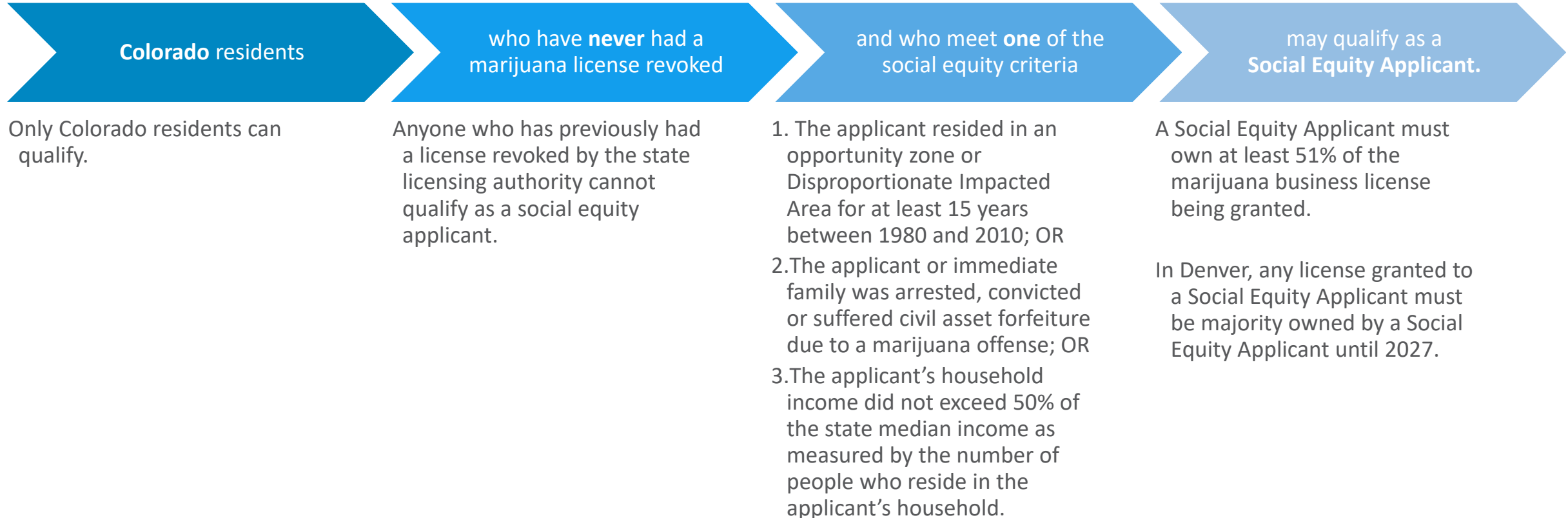
- Provide opportunities to individuals who have been harmed by marijuana prohibition or by historical inequities
- Lay the foundation for equitable wealth creation

Creating Policy using an Equity Lens



Who qualifies as a Social Equity Applicant?

Denver's bill adopts the same definition as [the state of Colorado](#)



Opportunities for Social Equity Applicants

Note:

The Department would be required to report to City Council on the Exclusivity Periods before they expire

Licensing Exclusivity

Rather than use a cap and lottery, distribute the following licenses exclusively to social equity applicants for a period of **6 years**:

- Stores
- Transporters
- Cultivations
- Manufacturing
- Hospitality, Mobile Hospitality, Hospitality & Sales

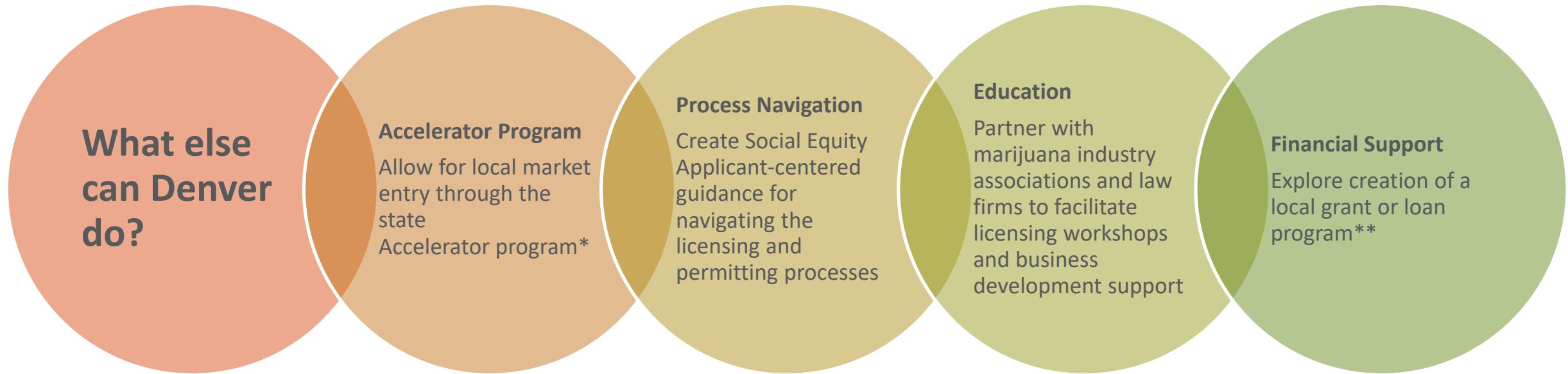
Transporter Delivery Exclusivity

Transporter Licensees will be given exclusivity to conduct delivery for **3 years** before stores are able to also conduct delivery.

Waive and/or Reduced Fees

- Application fees waived
- 50% reduction in license fees for stores, transporters, cultivations, and MIPs
- Low licensing fees for new license types

Other Support for Social Equity Applicants



*currently incorporated into omnibus bill language

**exploring revenue-generating and partnership opportunities to establish programs that help social equity applicants access capital and funding support

The Proposed New Denver Marijuana Code

New Code Basics

Marijuana Codes in Chapter 6

- This bill **relocates** the Medical Marijuana provisions from Chapter 24 to Chapter 6 where Retail Marijuana provisions area already located.

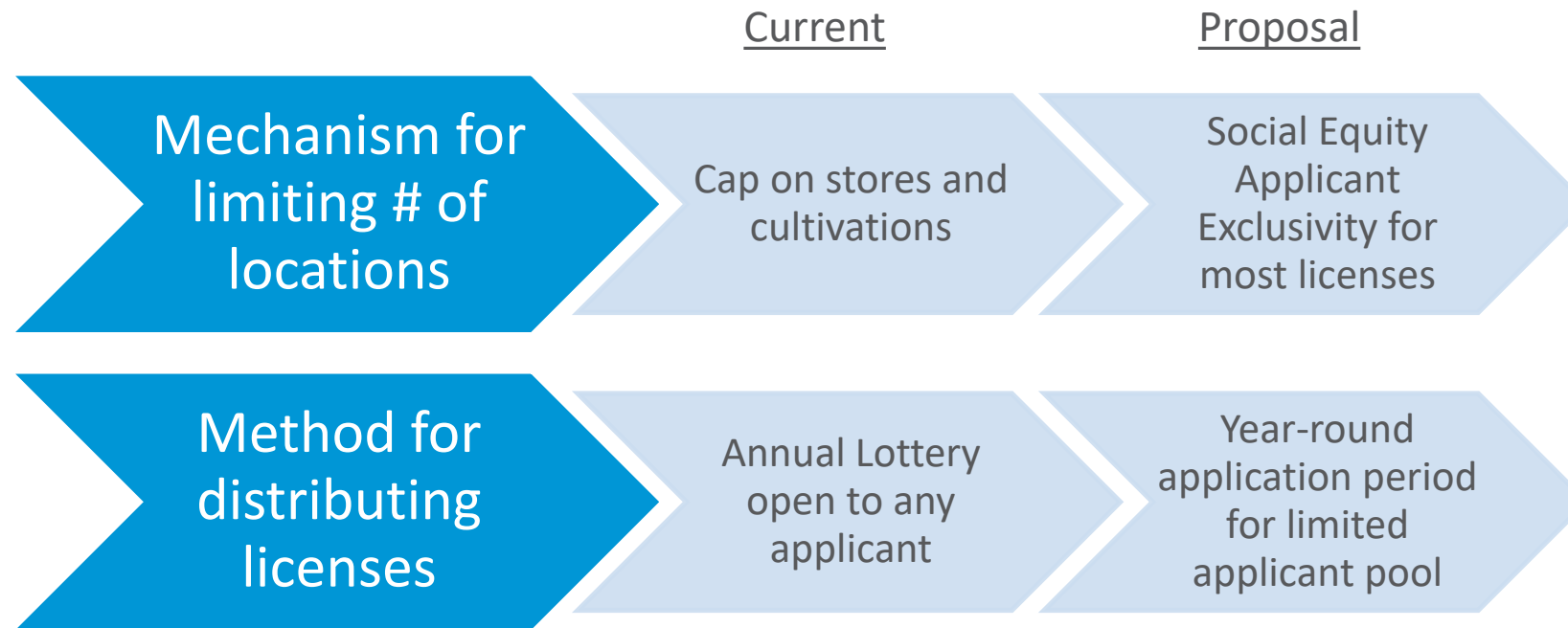
Consistent Terminology

- This bill **aligns** our code with state code by incorporating parallel terminology, such as medical and retail stores and cultivation facilities.

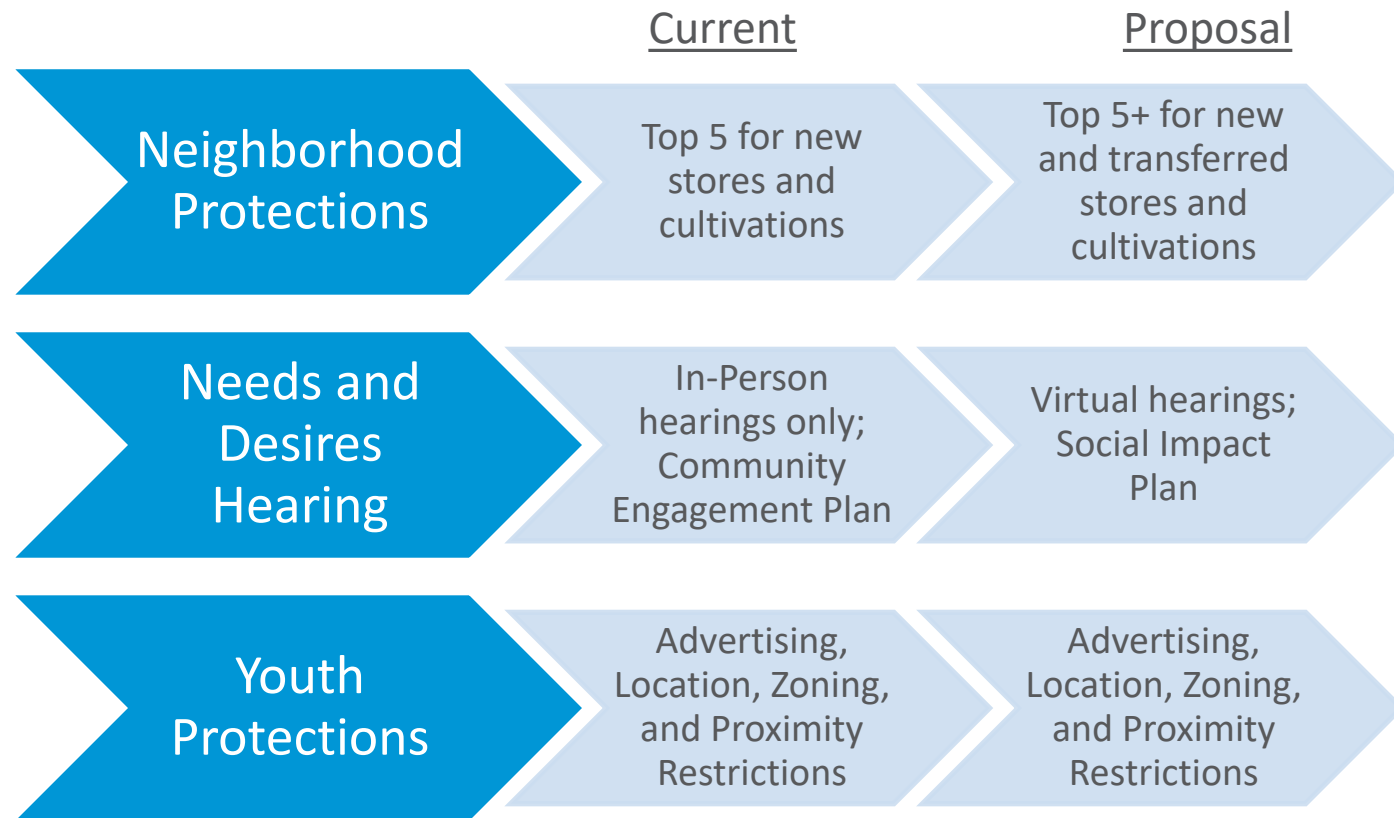
Requirements for existing licenses

- Provisions governing existing licenses have been evaluated using an **equity lens** and revised as necessary to clarify or update licensure requirements and restrictions.

Distribution of Marijuana Licenses



Protections for Neighborhoods and Youth



Youth Protection Regulations

Advertising



- **Maintain** current advertising restrictions
- **Limit** state's expansion on branding to consumer goods and apparel

Density

- **Maintain** prohibition on new store or cultivation locations (new or transferred) in the five most saturated neighborhoods
- **Maintain** Director's ability to consider density of outlets when issuing or denying a license
- **Maintain** 1,000 feet buffer between stores

Proximity



- **Maintain** current proximity restrictions for all license types
- **Adjust** the method for measuring proximity for drug and alcohol treatment facilities (stores and hospitality), city recreation centers (hospitality only), and outdoor pools (hospitality only)

Public Licensure Process Improvements

Social Impact Plan

- **Requires** all applicants to submit and make publicly available a Social Impact Plan (SIP) detailing information previously contained in the Community Engagement Plan, as well as information about
 - Diversity and inclusion in hiring and employment practices
 - Environmental sustainability practices
- **Requires** applicants to provide specific metrics they will be using to measure the success of their programs
- **Requires** licensees to report on their stated goals, using specific metrics, upon application for renewal

Streamlining Virtual Hearings

- **Allows** for greater accessibility than in-person hearings

Clearer Renewal Hearing Standards

- **Clearly lists** all circumstances under which the director may set a renewal hearing

Other Omnibus Changes

Hours of Operation

- **Align** with the state by allowing stores to operate from 8:00 a.m. – 12:00 a.m.

Safety Requirements



- **Add** requirement for stores to secure product in a safe or vault at night to deter burglaries and ensure that less product is available for diversion if a burglary occurs



- **Prohibit** drive-up, walk-up, and curbside delivery services outside of emergency rules such as those promulgated to promote social distancing during COVID-19

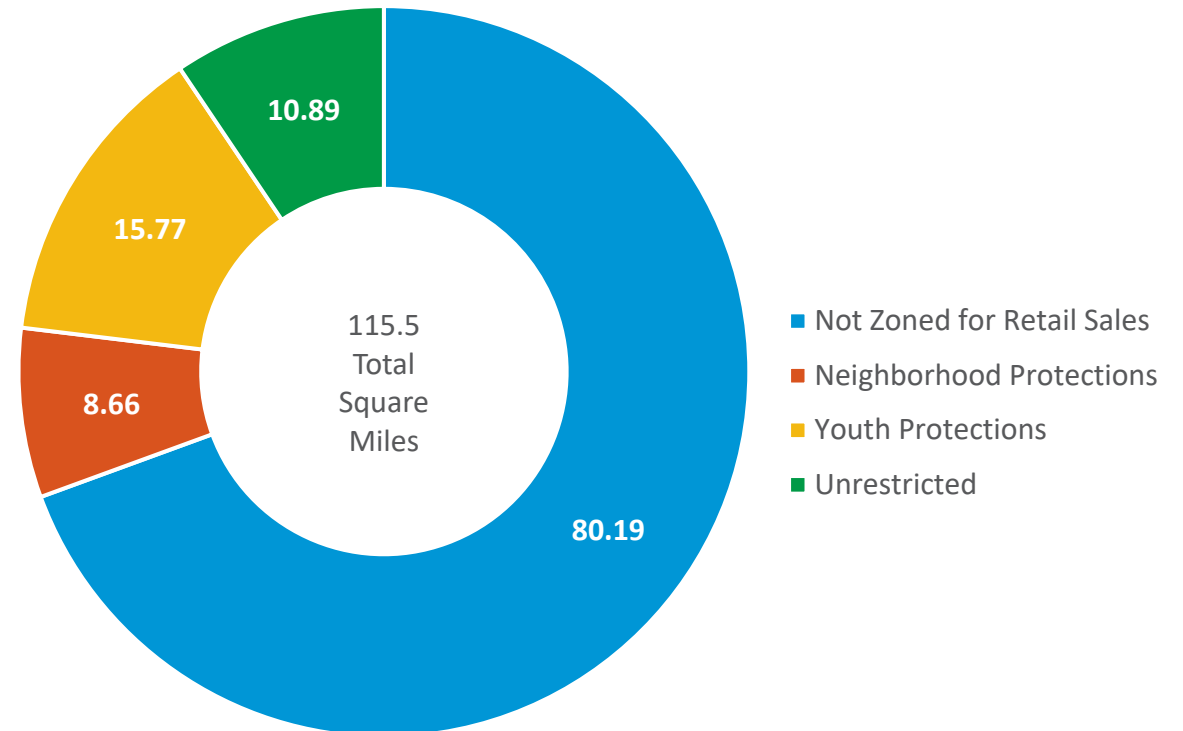
Fee Increases

- **Increase** Transfer of Location Fee from \$750 to \$1,000 for licenses that don't require a hearing
- **Increase** Transfer of Location Fee from \$750 to \$1,500 for licenses that require a hearing
- **Increase** Modification of Premise Fee from \$150 to \$300
- **Increase** Transfer of Ownership Fee from \$150 to \$250

Striking a Balance: Maintaining Protections and Measured Growth

Marijuana Store Locations

- Current zoning laws, in combination with Neighborhood and Youth Protection Regulations, sufficiently protect the city from a large influx of new stores.
- Visit our [website](#) to view a map that shows areas of the City that are eligible for a new marijuana store.
- Any new marijuana store location would be limited to Social Equity Applicants.



Denver's Proposed Delivery Program

Marijuana Delivery Basics

Who can receive deliveries?



- A customer or patient must be 21+ to receive deliveries.
- **Additionally:** Delivery drivers will be required to use ID scanners to verify the consumer's age

When can deliveries occur?

8:00 a.m. – 12:00 a.m.

How much product can be delivered?

Medical Sales Limits

2 ounces marijuana | 40 grams marijuana concentrate | marijuana products containing 20,000 mg THC

Retail Sales Limits

1 ounce marijuana | 8 grams marijuana concentrate | marijuana products containing 800 mg THC

Where can Marijuana Delivery occur?

Where can marijuana be delivered?

- A private residence in Denver
- A private residence in any other Colorado jurisdiction that affirmatively allows marijuana delivery

Where is marijuana delivery prohibited?

- Within any Colorado jurisdiction that does not affirmatively allow marijuana delivery
- Any premises located at a school or on the campus of an institution of higher education
- Any premises located on public property
- Any commercial property unit such as offices or retail space
- To a consumer or private residence where the licensee knows or reasonably should know that the consumer or private residence has already received a delivery during that same business day
- **Additionally:** Our proposal also prohibits delivery to a drug or alcohol treatment facility



Marijuana Delivery Safety Regulations

Security Requirements

Video surveillance must record at least the marijuana storage compartment and the front view of the vehicle. Footage must be retained for a minimum of 40 days.

Total Product Limits



Enclosed delivery vehicles

Cannot contain more than \$5,000 in retail value of marijuana (**half** of the amount allowed by state law)

Non-enclosed delivery vehicles

Cannot contain more than \$2,000 in retail value of marijuana

Record Requirements



Additionally: Delivery drivers must keep receipts in the vehicle.

Marijuana Delivery Permits

Licenses that can obtain a Marijuana Delivery Permit

- Medical and retail marijuana stores
- Medical and retail marijuana transporters

Exclusivity for Equity Applicants



2021-2024: Only transporters may conduct deliveries.

- Transporters must qualify as a Social Equity Applicant and obtain a delivery permit to conduct deliveries. Transporter licenses are non-transferrable.
- Stores that supply marijuana to consumers through transporters must do so pursuant to a contract between the store and the transporter, and the store must obtain a delivery permit.

After 2024: Transporters and stores may conduct deliveries.

Marijuana Delivery Permit Fees

License Transaction	Fee
Application Fee (one-time)	\$500*
License Fee (annual)	\$2,000
Transfer of Location	\$1,000
Transfer of Ownership	\$250

*Application fee waived for Social Equity Applicants



Hospitality Bill

What would this bill do?

Authorizes Marijuana Hospitality Establishments

- In alignment with the Marijuana Hospitality License created at the State level, this creates a Denver Marijuana Hospitality Program to allow for lawful marijuana consumption establishments with smoking and vaping options

Protects Youth

- Maintains strong youth protection provisions in Denver to minimize risks associated with marijuana legalization

Marijuana Consumption Laws in Denver

2016

- Denver residents approved the [Denver Cannabis Consumption Pilot Program](#) with the passage of Initiative 300

2017

- The Department of Excise & Licenses adopted [agency rules](#) to supplement the citizen-initiated ordinance

2018

- The first [Cannabis Consumption License](#) to allow for adult marijuana consumption in Designated Consumption Areas was issued in Denver

2019

- The Colorado General Assembly passed [House Bill 19-1230](#), creating two marijuana hospitality license types
- The Colorado Marijuana Enforcement Division subsequently adopted [agency rules](#) to supplement the statute

Hospitality License Types and Models

Marijuana Hospitality Establishment	Marijuana Hospitality Establishment (Mobile)	Marijuana Hospitality & Sales Establishment
<ul style="list-style-type: none">• Allows for consumption of marijuana by adult patrons within a permanent licensed premises.• No sales of marijuana permitted (BYOC only).	<ul style="list-style-type: none">• Allows for consumption of marijuana by adult patrons within a mobile licensed premises.• Mobile premises must be a vehicle (like a shuttle or a bus).• No sales of marijuana permitted (BYOC only).	<ul style="list-style-type: none">• Allows for consumption of marijuana purchased on-site by adult patrons within a permanent licensed premises.• Limited sales of marijuana are permitted - No BYOC.

Hospitality Establishment Basics

Who can patron a hospitality establishment?

A patron must be 21+ to enter *all types* of hospitality establishment.

When can hospitality establishments operate?

7:00 a.m. – 2:00 a.m. for *all types* of hospitality establishments

What methods of consumption are permitted in a hospitality establishment?

Indoor smoking and vaping are allowed at *all types* of hospitality establishments with proper odor and ventilation controls.

Local Hospitality Establishment Requirements

Overlapping Premises



- *All types* of Hospitality Establishment are prohibited from allowing their licensed premises to overlap with a liquor licensed premise.
- **In Denver:** *All types* of Hospitality Establishment are prohibited from allowing their licensed premises to overlap with the licensed premises of a medical or retail marijuana store or a liquor licensed premise.

Odor Control



In Denver: An Odor Control Plan will be required for *all types* of hospitality establishments.

Public Hearing



In Denver: Applicants for a hospitality license must undergo a Needs & Desires hearing *unless* the hospitality establishment is mobile. All hospitality applicants must provide evidence of community support at the time of application.

Hospitality Establishment Site Requirements

Outdoor



- Outdoor consumption areas must be surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.
- **Additionally:** Outdoor consumption areas must comply with existing Denver odor control and/or ventilation requirements.

Retail Food Establishment (RFE)



- Hospitality establishments that are co-located with an RFE must be separated from the rest of the RFE by a sight-obscuring barrier and secure door.
- Marijuana cannot be added to food that is served in the RFE.
- **Additionally:** Consumption areas in an RFE must comply with existing Denver odor control and/or ventilation requirements.

Youth Protection: Location and Proximity Requirements

Note: All businesses in Denver must comply with the Denver Zoning Code for their underlying use.

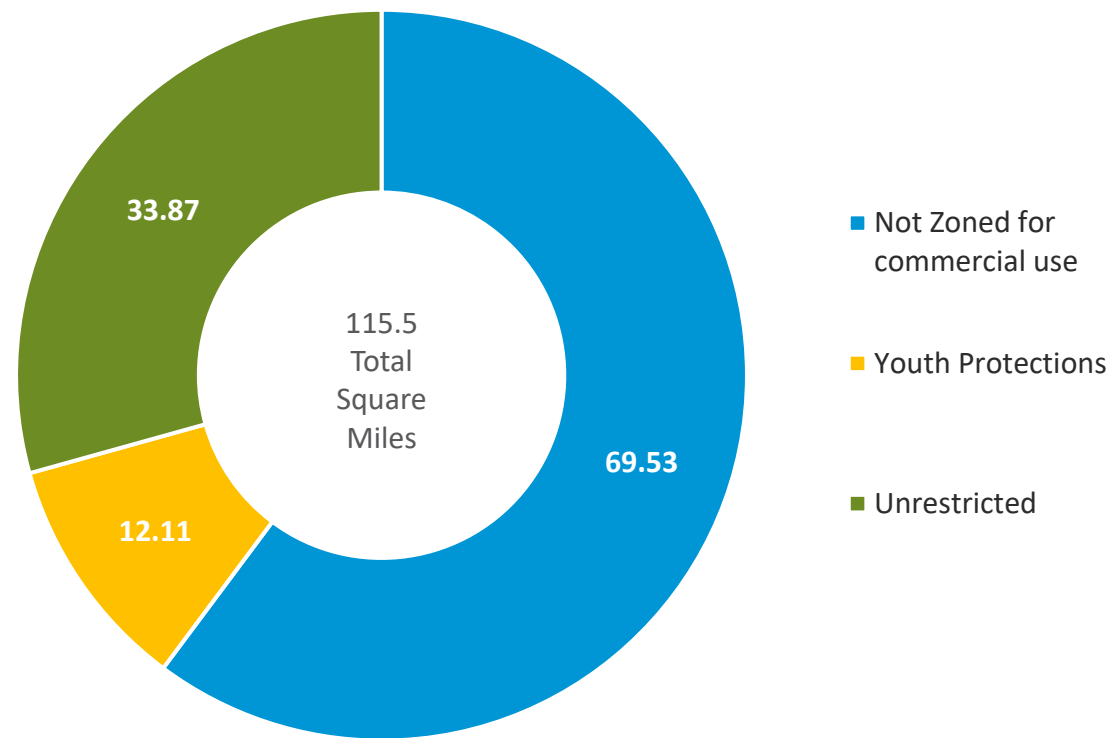
Protected Use	Marijuana: All Hospitality License Types (PROPOSED)	Marijuana: Designated Consumption Areas (REPEALING)	Marijuana: Medical Centers & Retail Stores	Alcohol: Retailers (liquor stores)	Tobacco: Retailers	Alcohol: On-site Consumption (bars)
Schools	1,000 ft.	1,000 ft.	1,000 ft.	500 ft.	1,000 ft.	500 ft.
Childcare Facilities	1,000 ft.	1,000 ft.	1,000 ft.			
City Pools and Rec Centers**	1,000 ft.	1,000 ft.			1,000 ft.	
Alcohol or Drug Treatment Facility**	1,000 ft.	1,000 ft.	1,000 ft.			
Other Similar License Types	1,000 ft. from other hospitality		1,000 ft. from other stores/centers	1500 ft.		

**Modifying measurement methodology in omnibus bill

Striking a Balance: Maintaining Protections and Measured Growth

Hospitality Locations

- There is no limit on the number of hospitality establishments, as there is only one location operating under the existing social consumption license program
- To see which areas of the city could be eligible for hospitality establishment locations, see our [website](#).
- Ownership of hospitality licenses would be limited to Social Equity Applicants.



Hospitality Establishment Specifics

Mobile Hospitality Requirements



- GPS tracking of the mobile premise is required and each route must be logged
- **In Denver:** A mobile marijuana hospitality business shall ensure that the motor vehicle has no external markings, words, or symbols that constitute advertising
- **In Denver:** The applicant must supply the Department with route information and is prohibited from allowing consumption if the vehicle is stopped at any given location for more than 30 minutes.



Sales Limits for Hospitality and Sales Establishments

2 grams marijuana | .5 grams marijuana concentrate | marijuana products containing 20 mg THC or less

Marijuana Hospitality License Fees

License Transaction	Fee
Application Fee (one-time)	\$1,000*
License Fee (annual)	\$2,000
Transfer of Location	\$1,500
Transfer of Ownership	\$250
Modification of Premises	\$300

*Application fee waived for Social Equity Applicants

Executive Summary

Social Equity (BR 21-0216)

- Remove the cap on store and cultivation locations and allow **only** social equity applicants to apply for those licenses for **six years**;
- Allow **only** social equity applicants to apply for manufacturing, transporter, hospitality, and hospitality and sales licenses for **six years**;
- Allow **only** social equity applicant transporters to conduct deliveries on behalf of stores for **three years**; and
- **Waive City application fees** and provide a **50% discount on annual license fees** for social equity applicants.

Delivery (BR 21-0216)

- **Opt-In** to allow delivery to private residences under state limits and requirements.

Hospitality (BR 21-0217)

- **Opt-In** to the license types that would allow for marijuana consumption in licensed establishments under state limits and requirements with options for smoking and vaping, micro sales, and mobile.
- **Maintain neighborhood and youth protections** with evidence of community support, needs and desires hearings and license buffers.

Budget Supplemental (BR 21-0222-on consent agenda)

- **Appropriate \$350,000 supplemental** to Denver Excise and Licenses to support implementation of new license types and to modernize most marijuana license applications to online submission.

Repeal Designated Marijuana Consumption Area Pilot Program (for future action)

- Upon passage of BR 21-0217 (Marijuana Hospitality Licensing), a bill request would be submitted to **repeal this program** that was created as a part of a 2016 citizen initiated ordinance.



Questions?

Contact us at marijuanainfo@denvergov.org