



CITY AND COUNTY OF DENVER

REVIEW AND COMMENT ON AN INITIATED ORDINANCE

CERTIFICATE OF COMPLIANCE

TO: Denver Elections Division

FROM: Office of the City Council
Office of the City Attorney

This is to certify that on the date listed below, the Denver City Council and the Denver City Attorney's Office conducted a public review and comment meeting in accordance with § 8.3.7 of the Denver Charter on an initiated ordinance, the full text of which is attached hereto as Exhibit A. If any substantial amendment is made to the text prior to the time the proposed initiated ordinance is submitted to the Elections Division, the proponents shall resubmit the proposed measure to the Denver City Council and the Denver City Attorney's Office as required by Sec. 15-3(b), D.R.M.C.

Description of proposed measure: Would create a neighborhood approved cannabis consumption pilot program to permit businesses approved by an eligible neighborhood association to allow the consumption of cannabis in a designated consumption area accessible to persons twenty-one years of age or older.

Proponents: Kayvan Khalatbari
Address: 877 Lipan Street, Denver CO 80204

Date Received: June 24, 2016

Date of Hearing: July 5, 2016
3 p.m.

Certified By:

Office of the Denver City Council

By: Janna B. Young, Executive Director

Office of the Denver City Attorney

By: David Broadwell, Esq. Assistant City Attorney

Signature: Janna B. Young

Signature: David Broadwell

Date: 7/6/16

Date: 7/6/16

Exhibit A

Neighborhood Approved Cannabis Consumption Pilot Program Initiative

Ballot Title:

Shall the voters of the City and County of Denver adopt a measure that creates a neighborhood approved cannabis consumption pilot program to permit businesses approved by an eligible neighborhood association to allow the consumption of cannabis in a designated consumption area that is only accessible to persons twenty-one years of age or older?

Full Text of Ordinance:

Be it enacted by the City and County of Denver:

Section 1: The Denver, Colorado Code of Ordinances, Title II, Chapter 6, is hereby amended to include a new Article VI:

ARTICLE VI. CANNABIS CONSUMPTION PILOT PROGRAM.

Sec. 6-300. Purpose and intent.

The city hereby declares that this chapter shall be deemed an exercise of the police powers of the city for the protection of the economic and social welfare and the health, peace, and morals of the people of the city.

The purpose and intent of this article is to permit cannabis consumption in places that are directly supported by an eligible neighborhood association and to permit persons in the city to obtain a cannabis consumption permit to operate a designated consumption area at any type of business or event provided they obtain the support of an eligible neighborhood association and meet the requirements of this article.

Sec. 6-301. Defined terms.

As used in this article, the following words and phrases shall have the meanings given to them in this section except where the context clearly indicates and requires a different meaning:

(1) Cannabis shall have the same meaning as marijuana as that term is defined in section 16 (2) (f) of article XVIII of the Colorado Constitution.

(2) Cannabis consumption accessory shall mean a marijuana accessory as that term is defined in section 16 (2) (g) of article XVIII of the Colorado Constitution that is used for the consumption of cannabis.

(3) Consumer shall mean a consenting individual, twenty-one (21) years of age or older, who wishes to engage in the consumption of cannabis within a designated consumption area.

(4) Designated consumption area shall mean a designated area where consumers are expressly permitted to consume cannabis.

(5) Director shall mean the director of excise and licenses.

(6) Eligible neighborhood organization shall mean any of the following organizations that includes within its boundaries all or a portion of the property where a designated consumption area is proposed to be located and is: (i) a registered neighborhood organization as defined in the Revised Municipal Code that has been in existence for more than two years; (ii) a business improvement district; or (iii) any other type of association of residents and owners of real property designated by the director as an eligible neighborhood organization.

(7) Evidence of community support shall mean any of the following forms of documentation; provided, however, that such documentation is authorized by an officer, director, or agent of one or more eligible neighborhood organizations:

(a) A letter of community support or non-opposition;

(b) A document or communication indicating community support or non-opposition;

(c) A good neighbor agreement; or

(d) Any other form of community support or non-opposition that the director creates, or deems sufficient, for the purpose of demonstrating evidence of community support.

(8) Good neighbor agreement shall mean an agreement entered into between an applicant for a cannabis consumption permit and one or more eligible neighborhood organizations.

(9) Permittee or permit holder shall mean a person or business who receives a permit under this article.

(10) Smoking shall mean the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains cannabis.

Sec. 6-302. Cannabis consumption permit; designated consumption areas.

Cannabis consumption is permitted in the designated consumption area identified on a valid cannabis consumption permit issued by the director, subject to any operational or other restrictions on cannabis consumption placed upon the cannabis consumption permit pursuant to this article. The designated consumption area identified on a cannabis consumption permit may be (i) an area located inside of or adjacent to a licensed premise or other business, (ii) a temporary location inside of or adjacent to a licensed premise or other business, or (iii) a temporary location not located inside of or adjacent to a licensed premise or other business.

Sec. 6-303. Qualifications for licensure - Community support requirement.

An application for a cannabis consumption permit shall contain, or otherwise provide, evidence of community support.

Sec. 6-304. Evidence of community support.

(a) An eligible neighborhood organization may, in its discretion, provide evidence of community support to an applicant for a cannabis consumption permit. The evidence of community support may include any additional operational requirements that the eligible neighborhood organization deems necessary to protect the health, safety, and welfare of the surrounding community, including, but not limited to, the following:

(1) Guidelines for, limitations on, or the specific prohibition of the concurrent consumption of cannabis and alcohol;

(2) Requirements to specifically address concerns about driving under the influence of cannabis;

(3) Requirements that the permit holder is obligated to provide or require pre-paid public transportation, taxi, or ride sharing services to any person consuming cannabis in the designated consumption area(s) of an event or business;

(4) Requirements that the permit holder create a plan to address issues of intoxication, which may include requirements that persons who are consuming cannabis be easily identifiable;

(5) Requirements for training managers and employees;

(6) Requirements or restrictions related to the outdoor smoking of cannabis;

(7) Requirements related to ventilation and odor control;

(8) Restrictions on advertising, in addition to any restrictions duly adopted by the city council;

(9) Requirements or restrictions concerning the visibility of cannabis consumption to persons located outside of a designated consumption area; and

(10) Requirements or restrictions related to hours of operation and setbacks from other uses in the surrounding area that are more restrictive than those contained in this article.

(b) Any operational requirements and restrictions included in any evidence of community support submitted with an application for a cannabis consumption permit may be incorporated as conditions of the permit granted by the director.

Sec. 6-305. Time limits for cannabis consumption.

It shall be unlawful for a permittee to allow the consumption of cannabis in a designated consumption area between the hours of 2:00 a.m. and 7:00 a.m.; provided, however, that an eligible neighborhood organization may designate more restrictive hours in the evidence of community support.

Sec. 6-306. Possession of premises.

At all times when cannabis consumption is permitted within a designated consumption area, the permit holder shall possess and maintain possession of the designated consumption area by ownership, lease, rental, or other bona fide arrangement for possession of the designated consumption area; or the permit holder shall have permission to use the premises to permit cannabis consumption from a person who is the lawful owner of the property where the designated consumption area is located.

Sec. 6-307. Required; overlapping licenses or permits.

(a) It shall be unlawful for any person to operate a designated consumption area without having a current and valid cannabis consumption permit as provided in this article.

(b) A designated consumption area of a cannabis consumption permit may overlap with the premises of any other license or permit issued pursuant to the Revised Municipal Code.

(c) The terms of a cannabis consumption permit or the exercise of the privileges of a cannabis consumption permit will not invalidate or make unlawful any other activity permitted under the terms of an overlapping license or permit validly issued pursuant to the Revised Municipal Code.

(d) Cannabis consumption permitted under this article shall not be grounds for suspension, revocation, non-renewal or any other disciplinary action against any overlapping license or permit validly issued pursuant to the Revised Municipal Code.

Sec. 6-308. Application.

(a) Applications for a cannabis consumption permit shall be made to the director upon forms to be provided by the director for that purpose, which forms shall be issued within 60 days of the effective date of this article, and which forms shall contain the following information:

(1) Address of the proposed designated consumption area;

(2) Name, address, and date of birth of all applicants, including any trade names or assumed names of any related businesses, and the name, address, and date of birth of any manager of the proposed designated consumption area for which the application is being made. In the event of an entity applicant, the form shall also contain the name, address, and date of birth for all persons who own five (5%) percent or more of the entity or will receive five (5%) percent or more of the profits of the entity;

(3) Proof of possession or permission detailing the applicant's right to use the designated consumption area for the purpose of permitting cannabis consumption;

(4) A description of the proposed hours of operation and, for all temporary locations, a description of the proposed duration of use for each proposed designated consumption area.

(5) The results of a criminal background check and such other information and documents as may reasonably be required by the director, including fingerprinting;

(6) A designated consumption area plan, as described in subsection (b) below;

(7) A responsible operations plan as described in subsection (c) below;

(8) A health and sanitation plan that demonstrates how rental cannabis consumption accessories will be cleaned and sanitized prior to each rental, if the applicant intends to provide rental cannabis consumption accessories to consumers within designated consumption areas; and

(9) A community engagement plan with the same minimum requirements as found in section 6-210 (b) of the Revised Municipal Code.

(b) A designated consumption area plan shall include the following information:

(1) A diagram of the physical layout of the premises no larger than 8 1/2 x 11 inches with dimensions included. The diagram does not have to be to scale, but must accurately reflect the area to be permitted;

(2) Each page of the plan(s) must indicate the boundary (including external and internal walls, doors, fences, gates and the like) and location of any proposed designated consumption area(s) where the privileges of the cannabis consumption permit may be exercised; and

(3) A separate diagram for each floor shall be submitted if the premise has multiple levels, including rooftops, if applicable.

(c) A responsible operations plan shall include the following information:

(1) A detailed written operations plan, describing how the applicant's employees and agents would prevent underage persons from entering the designated consumption area; and

(2) The applicant's employee training manual or employee policy addressing issues related to the consumption of both alcohol and cannabis, as applicable, as well as strategies and procedures for identifying and responding to the potential over-intoxication of consumers.

Sec. 6-309. Unlawful acts.

(a) It shall be unlawful for a permittee, employee, or agent thereof under this article to directly or indirectly sell, provide, transfer, or distribute cannabis within or around a designated consumption area, unless otherwise permitted by state law.

(b) It shall be unlawful for any person to directly or indirectly sell, provide, transfer, or distribute cannabis for remuneration within a designated consumption area, unless otherwise permitted by state law.

(c) It shall be unlawful for any person under twenty-one (21) years of age to be hired or employed to supervise or work within a designated consumption area.

(d) It shall be unlawful for a permittee to admit persons who are not at least twenty-one (21) years of age into a designated consumption area. Proof of age shall be verified in a manner similar to that which is required for the purchase and sale of alcohol.

(e) It shall be unlawful for any person to possess more than one ounce of cannabis at any time within a designated consumption area, unless a greater amount is permitted by state law.

Sec. 6-310. Operational requirements - Provisions applicable to all permittees.

(a) Designated consumption areas must be clearly marked with conspicuous signage measuring not less than forty (40) square inches in size that includes the statement "NO ENTRY UNDER 21" in all upper case letters not less than one (1) inch high.

(b) The permit holder shall ensure that any outside smoking of cannabis occurring at the street level is not visible from a public right-of-way or a place where children congregate.

(c) All cannabis consumption permitted within a designated consumption area must comply with the requirements of the Colorado Clean Indoor Air Act.

(d) The permit holder shall make reasonable accommodations to ensure that persons immediately outside of an indoor designated consumption area are not subject to cannabis odor caused by cannabis consumption occurring within an indoor designated consumption area.

(e) The permit holder must comply with restrictions on advertising set forth in the evidence of community support submitted with the permit holder's application for a cannabis consumption permit, as well as any other reasonable restrictions set forth by the city by ordinance.

Sec. 6-311. Zoning, location, and setback requirements.

(a) A designated consumption area may not be located or operated within one thousand (1,000) feet of any school, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for school to the nearest portion of the building, structure, or enclosure in which the designated consumption area is located.

(b) A designated consumption area shall not require specific zoning permits, and shall be permitted in any zone lot where the underlying business or event is permitted.

Sec. 6-312. Term of permit; renewals.

(a) Any permit issued pursuant to this article shall be valid for a period of one (1) year from the date of issuance or such shorter or non-consecutive times as may be agreed to in the evidence of community support submitted with the application for a cannabis consumption permit.

(b) If the permit holder has received notice of a violation of any law or regulation, including disciplinary action against any cannabis consumption permit holder, the application for renewal shall include a copy of the notice or disciplinary action.

Sec. 6-313. Expansion, enlargement or modification of designated consumption areas.

(a) No designated consumption area shall be expanded, enlarged or materially modified without the written approval of the director. Forms for this purpose will be furnished upon request by the director.

(b) If, after reviewing the application, plans, specifications or sketches, the director finds that the proposed change to a designated consumption area materially or substantially alters the premises or the usage of the premises, the director shall require new evidence of community support as required for a new permit application in this article.

Sec. 6-314. Permits as licenses - Enforcement.

Except as otherwise stated in this article, the director shall treat cannabis consumption permits as licenses issued under chapter 32 of the Revised Municipal Code. The procedures for investigation of cannabis consumption permit violations and for non-renewal, suspension, revocation or other sanctions as a result of any such violation shall be governed by chapter 32 of the Revised Municipal Code.

Sec. 6-315. Fees.

Permit and application fees under this article shall be set by the city council. Until the city council sets a different fee, the annual fee for a cannabis consumption permit shall be \$1000 and the application fee shall be \$1000.

Sec. 6-316. Rules and regulations.

(a) The director may make such reasonable rules and regulations as may be necessary for the purpose of administering and enforcing the provisions of this article and any other ordinances or laws relating to and affecting the issuance and operation of cannabis consumption permits as described herein.

Such rules and regulations shall not frustrate the intent of this ordinance to permit all types of businesses or events that otherwise meet the requirements of this article to receive a cannabis consumption permit.

(b) Without limiting the foregoing, the director may create methods of obtaining community support in addition to those outlined in this article and create rules and regulations to ensure that eligible neighborhood organization are not created for the sole purposes of supporting a cannabis consumption permit.

(c) It shall be unlawful for any person to violate a rule or regulation adopted by the director pursuant to this section.

Sec. 6-317. Duties of the city council.

(a) The city council shall create a cannabis consumption task force to study the impact of cannabis consumption permits on the city. The cannabis consumption task force shall report its findings to the city council within two years of the effective date of this article.

(b) The city council may create additional ordinances to implement this article provided such ordinances do not frustrate the intent of this article to permit all types of businesses or events that otherwise meet the requirements of this article to receive a cannabis consumption permit with the support of an eligible neighborhood organization.

Sec. 6-318. Self-executing, severability, and conflicting provisions.

All provisions of this article are self-executing except as specified herein, are severable, and except where otherwise indicated in the text shall supersede conflicting provisions of the Revised Municipal Code and any regulations promulgated thereto.

Sec. 6-319. Sunset.

This article shall be effectively repealed December 31, 2020 or when the city passes comprehensive regulations governing cannabis consumption that further the intent of this article, whichever first occurs.

Section 2: Denver, Colorado Code of Ordinances, Title II, Chapter 38, Article V, Sec. 38-175 is hereby amended to read:

Sec. 38-175. Possession or consumption of marijuana.

(b) It shall be unlawful for any person to openly and publicly display or consume one (1) ounce or less of marijuana.

(1) The term "openly" means occurring or existing in a manner that is unconcealed, undisguised, or obvious, but shall not include the consumption of marijuana occurring within a designated consumption area as that term is defined in Title II, Chapter 6, Article VI of the Revised Municipal Code.

Section 3: Denver, Colorado Code of Ordinances, Title II, Chapter 32, Article I, Sec. 32-22 is hereby amended to read:

Sec. 32-22. Revocation.

In addition to any other penalties prescribed by the Revised Municipal Code, the director may, on his own motion or on complaint, and after investigation and a show-cause hearing at which the licensee shall be afforded an opportunity to be heard, suspend or revoke any license previously issued by him for any violation of any of the following provisions, requirements, or conditions:

(8) The licensee, or any of the agents, servants or employees of the licensee, have violated any ordinance of the city or any state or federal law on the premises or have permitted such a violation on the premises by any other person; provided, however, this paragraph shall not apply to permitted behavior on the premises concerning the possession, consumption, display, or use of cannabis or cannabis accessories as may otherwise be permitted by the Revised Municipal Code or state law.

Section 4: Denver, Colorado Code of Ordinances, Title II, Chapter 6, Article V, Sec. 6-206 is hereby amended to read:

Sec. 6-206. Unlawful acts.

(c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, or the Colorado Medical Marijuana Code, or the Revised Municipal Code.

Section 5: Denver, Colorado Code of Ordinances, Title II, Chapter 32, Article I, Sec. 6-35 is hereby amended to read:

Sec. 6-35. Disorderly behavior; report by licensee.

(a) Each licensee shall conduct his establishment in a decent, orderly and respectable manner. No licensee, manager, agent, or employee of a licensee, nor a member of any organization licensed herein, shall permit within or upon the licensed premises: the loitering of intoxicated persons or persons under the influence of alcohol, narcotic drugs, stimulants or depressants; nor lewd or obscene displays or activities; nor disturbances, disorderly conduct, or undue noise; nor any unlawful act; nor other activity offensive to the residents of the neighborhood in which the establishment is located; provided, however, this section shall not apply to the possession, consumption, display, or use of cannabis or cannabis accessories as may otherwise be permitted by the Revised Municipal Code or state law.

(b) Any licensee, and any manager or agent or employee of a licensee, shall immediately report to the police department any unlawful or disorderly act or conduct committed on the licensed premises; provided, however, this paragraph shall not apply to permitted behavior on the premises concerning the possession, consumption, display, or use of cannabis or cannabis accessories as may otherwise be permitted by the Revised Municipal Code or state law.

Section 6: Denver, Colorado Code of Ordinances, Title II, Chapter 32, Article I, Sec. 37-50 is hereby amended to read:

Sec. 37-50. Definitions.

(a) Gang related criminal activity: means any criminal violation of federal law, state law, or City Code committed by two (2) or more persons, acting jointly, through a conspiracy, or in complicity, where those persons are members of the same association or organization which has as one (1) of its purposes the commission of crime; provided, however, this paragraph shall not apply to permitted behavior on a premises concerning the possession, consumption, display, or use of cannabis or cannabis accessories as may otherwise be permitted by the Revised Municipal Code or state law.

