



**Denver City Council
Special Issues: MJ Committee
November 19, 2018**

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?

Purpose and Intent:

Purpose is to permit cannabis consumption in places directly supported by an eligible neighborhood association AND to permit people to obtain a cannabis consumption permit to operate a **designated consumption area (DCA)** at any type of **business or event**.





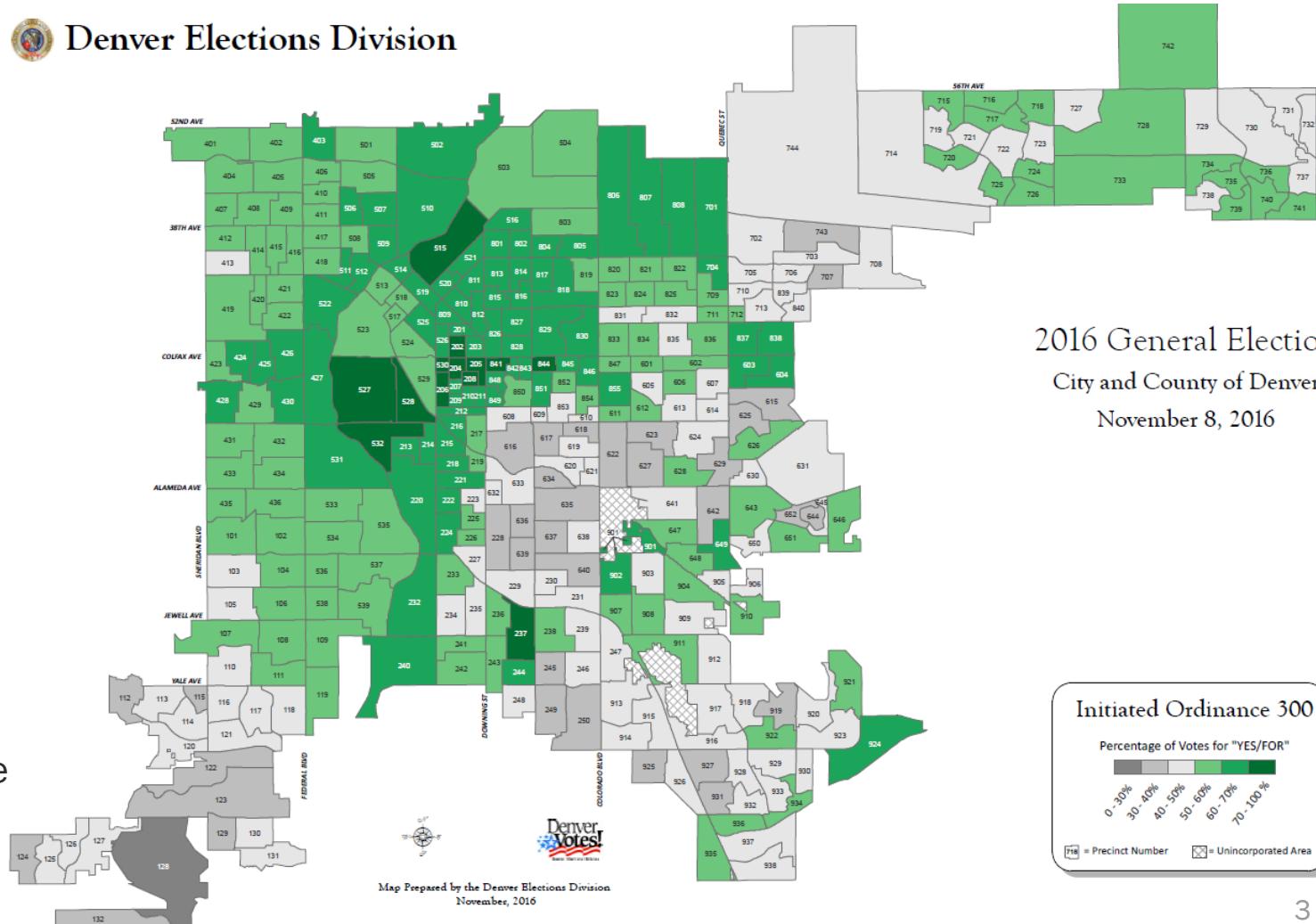
I-300 (2016) Election Results

*Citizen-initiated
ordinance
passed with a
54% majority*

*Why are social consumption places needed?
What was the initiative trying to solve?*

Public consumption was already happening (and continues to happen) in parks, alleyways, cars, hotels, etc. The intent was to provide a safe, legal place where people could consume without impacting others in public (especially children).

 Denver Elections Division





DPD – Commander Henning

- Update on cannabis public consumption

- **Evidence of community support (Sec. 6-304):** Applicants are required to provide evidence of community support or non-opposition from an eligible neighborhood organization.
- **Time limits for cannabis consumption (Sec. 6-305):** Cannot operate from 2 AM – 7 AM
- **Zoning, location, and setback requirements (Sec. 6-311):**
 - Consumption areas may not be located within 1000 feet of any school.
 - Specific zoning permits not required for consumption areas.
 - Consumption areas should be permitted in any zone lot where the underlying business or event is permitted.
- **Fees (Sec. 6-315):** Application and annual permitting fees are set at \$1000 each until City Council sets a new fee.
- **Duties of the city council (Sec. 6-317):** Create a cannabis consumption task force to study the impacts of permits on the city and report findings to City Council within 2 years of the effective date.
- **Sunset (Sec. 6-319):** The initiative was passed as a pilot program to be repealed on December 31, 2020 or when the city passes comprehensive regulations for cannabis consumption.

Social Consumption in the U.S.

Nov. 2016: California legalized recreational marijuana with the passing of Prop. 64, Adult Use of Marijuana Act.

Massachusetts legalized recreational marijuana with the passing of Ballot Question #4, Massachusetts Marijuana Legalization Initiative.

- Allows local jurisdictions to authorize the on-site consumption of cannabis if they hold a referendum and opt-in
- Likely still years before MA sees consumption venues

June 2017: California SB-94, Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) signed by Gov. Brown

- Allows local jurisdictions to authorize the on-site consumption of cannabis by state-licensed retailers and/or microbusinesses
- Allows for testing room model if municipalities opt-in

Oct. 2018: San Francisco Department of Public Health released Proposed Rules and Regulations for Cannabis Consumption Permits (next slide)

Other states studying and/or working to implement social consumption policies: Alaska, Maine, Nevada, Oregon, Washington

November 2018 Election Results for Marijuana Initiatives

Recreational: Michigan

Medical: Missouri, Utah

Total Counts: 10 states have legalized for recreational use; 22 states have legalized medical use.

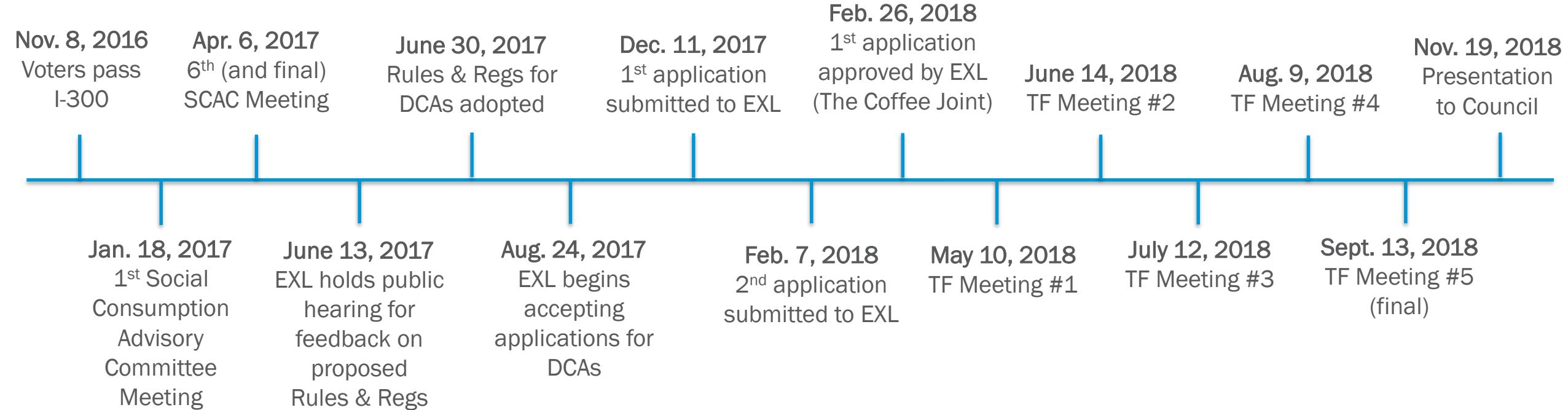
San Francisco lounges

- Summary of proposed rules & regulations (Oct. 2018):
 - Three types of permits:
 - Type A: Cannabis Consumption – No Preparation. BYOC
 - Type B: Cannabis Consumption – pre-packaged cannabis and may also prepare consumable products
 - Type C: Cannabis Smoking –allows on-site smoking and consumption of pre-packaged cannabis products
- Some lounges currently operating under the tasting room model (attached to a dispensary)

Amsterdam coffee shops

- Cannabis and mushrooms considered “soft drugs”
- Public consumption is illegal, but accepted if occurs in a controlled environment
- Individuals can only have 5 grams of cannabis on their person
- Municipalities determine whether to allow coffee shops, number of locations, and any additional rules they wish to impose
- Coffeeshops are the primary location for consumption
- Approximately 250 coffee shops; most located in the Red Light District
- Coffee shop consumption rules:
 - 18+ years or older with identification
 - Can only visit the same coffee shop twice in one day
 - Patrons can only purchase 5 grams in one day
 - Alcohol and cigarettes are forbidden
 - Nuisance is not permitted
 - The use of hard drugs is forbidden
 - Not allowed within a 250m (820 ft) radius of schools

2013: some municipalities in the Netherlands created a policy to decrease the negative impacts of coffee shops in communities by restricting the sale of cannabis to residents of the Netherlands. Coffee shops are required to check IDs, but it is loosely enforced.



Key Features of Rules Governing DCAs

- **Application Requirements (Article II):** In addition to standard application requirements, social consumption applications must include the following to be considered complete:
 - A description and supporting evidence detailing **compliance with the Colorado Clean Indoor Air Act**
 - **Evidence of community support**, including additional restrictions on advertising and operational requirements as provided by an Eligible Neighborhood Organization
 - A responsible operations plan
 - A documented employee training program
 - A health and sanitation plan (if applicable)
 - A marijuana waste plan
 - **A Community Engagement Plan as provided in D.R.M.C. § 6-210(b)**
 - An Odor Control Plan as provided in D.R.M.C. § 4-10 (if applicable)
- **Restrictions on Applications for New Permits (Article III):**
 - **Consumption cannot be visible to the public.**
 - A Cannabis Consumption Special Event permit cannot be issued for an event that also has a special event liquor permit.
 - Permits **cannot be issued within 1000 feet of any school, child care establishment, alcohol or drug treatment facility, or city-owned recreation center or city-owned outdoor pool.**
 - Permits cannot be issued for any school, child care establishment, alcohol or drug treatment facility, licensed marijuana establishment, any location deemed public property and owned by the City, and any location in a residential zone district.
- **Operational Requirements (Article V):**
 - Entrances to consumption areas must be monitored at all times when being used for cannabis consumption.
 - Social consumption businesses **cannot advertise consumption areas anywhere in the city where the advertisement is visible to the public from a Public Place.**
 - Businesses with consumption areas must be clearly marked with a standardized placard designed by Excise & Licenses.
 - Consumption areas must be clearly marked with signs stating, “NO ENTRY UNDER 21.”
- **Public Hearing Requirement (Article VI):**
 - Upon completion and submission of an application, **a public hearing will be scheduled not less than thirty (30) days from the date of submission.**
 - Parties-of-interest may request a public hearing for a Cannabis Consumption Special Event Permit at least thirty (30) days prior to the event with ten (10) valid signatures.

DCA Eligible Locations

I-300 Marijuana Social Consumption Area Task Force

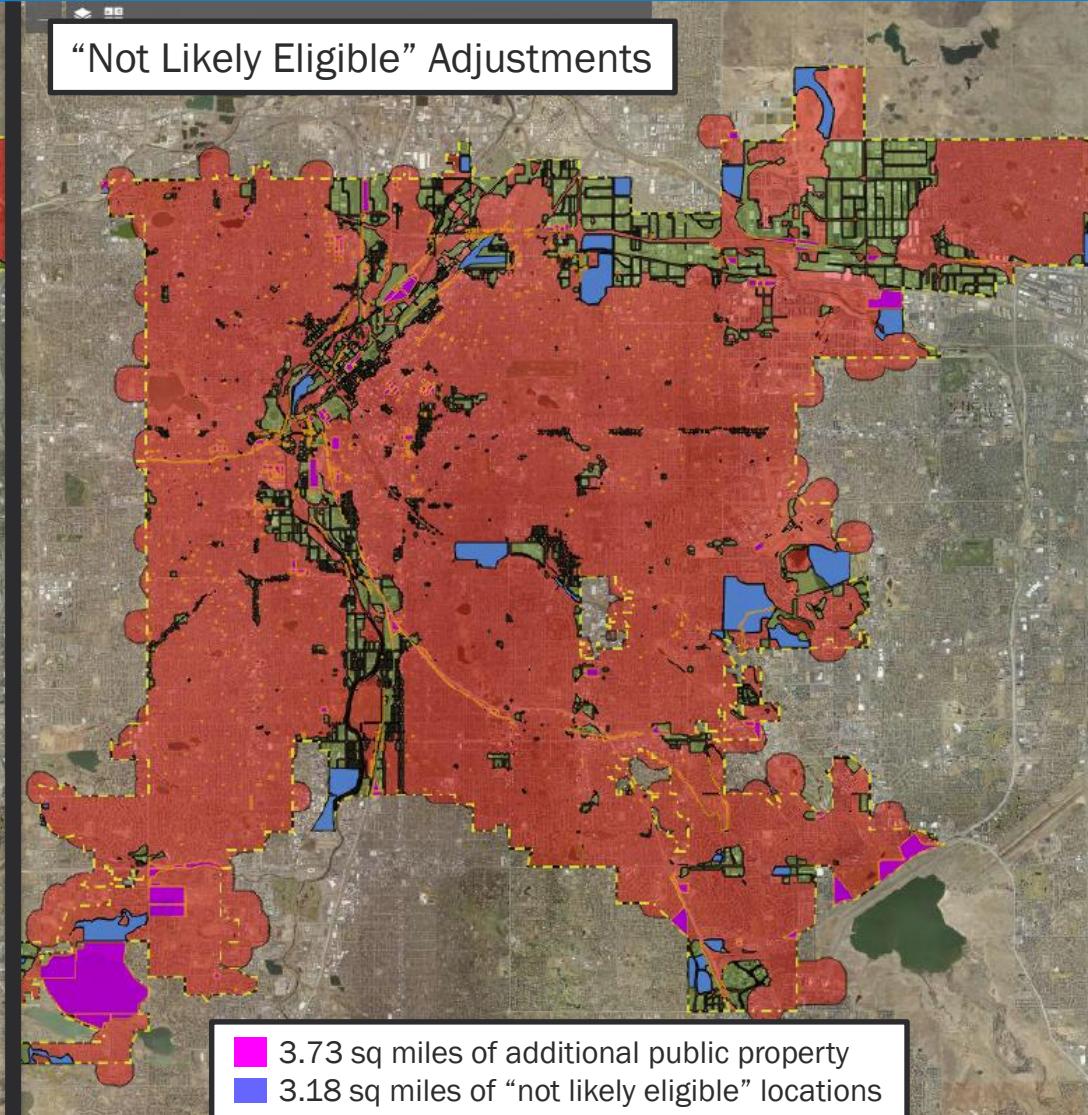
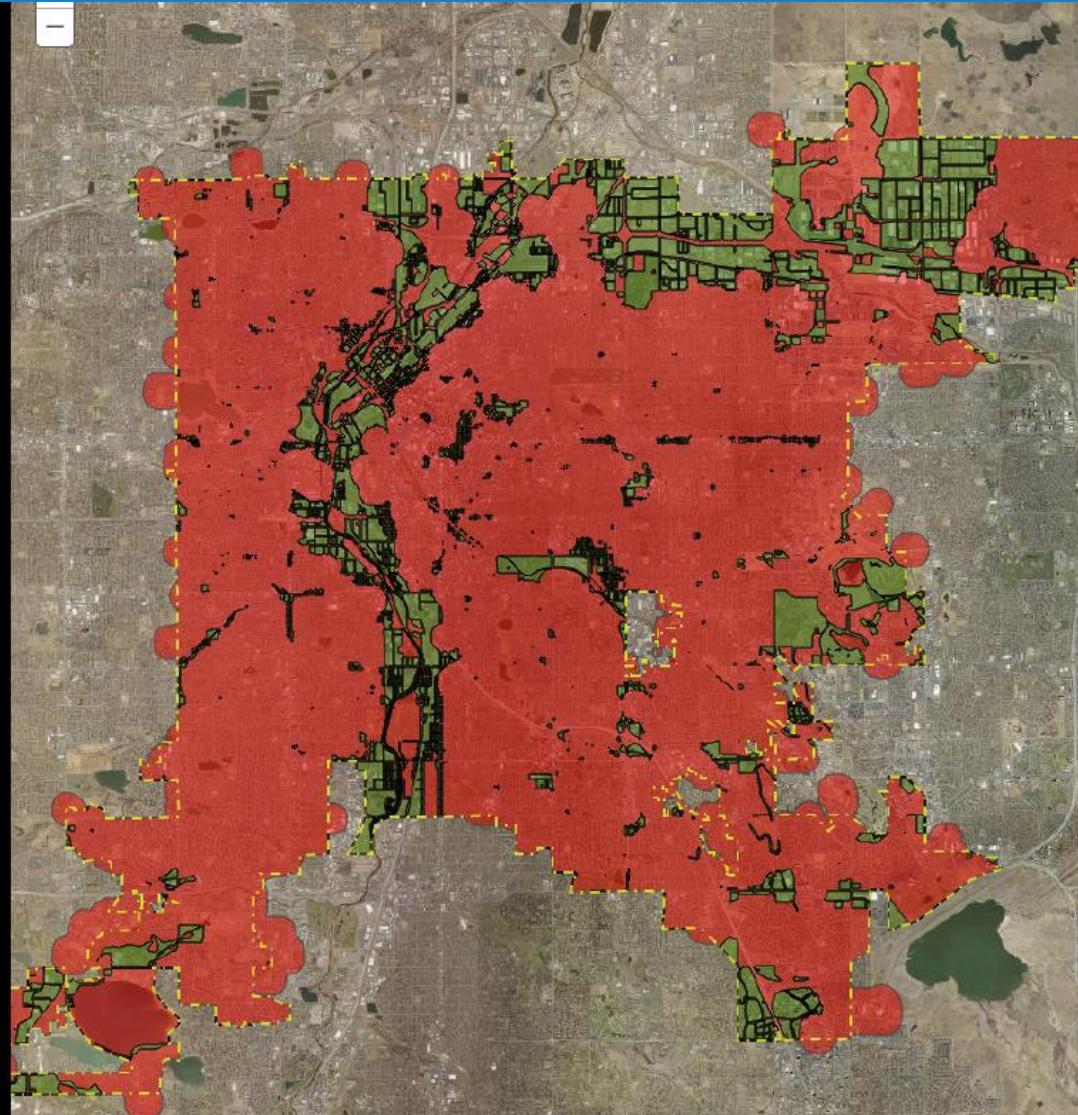
This Map shows the current I-300 Regulations.

The Ineligible areas shown in Red and contain the following factors:

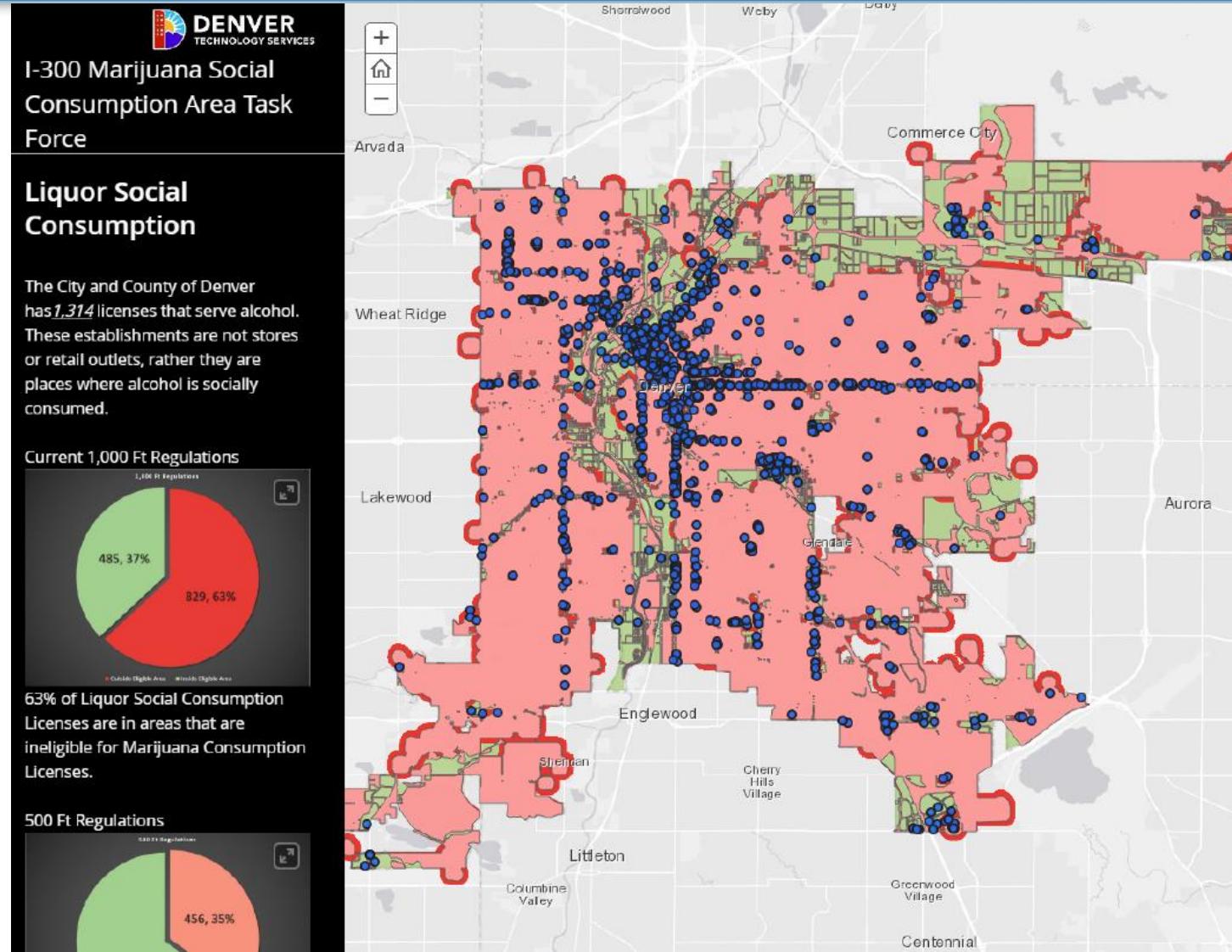
- 1,000 ft from any school*
- 1,000 ft from any child care license*
- 1,000 ft from City-owned Rec Center or Pool*
- Residential Zoning District
- City and County of Denver Public Property
- Right-of-Way
- Water

Green areas of the are Eligible for SCA.

*computed by direct measurement in a straight line from the nearest property line to the nearest portion of the building

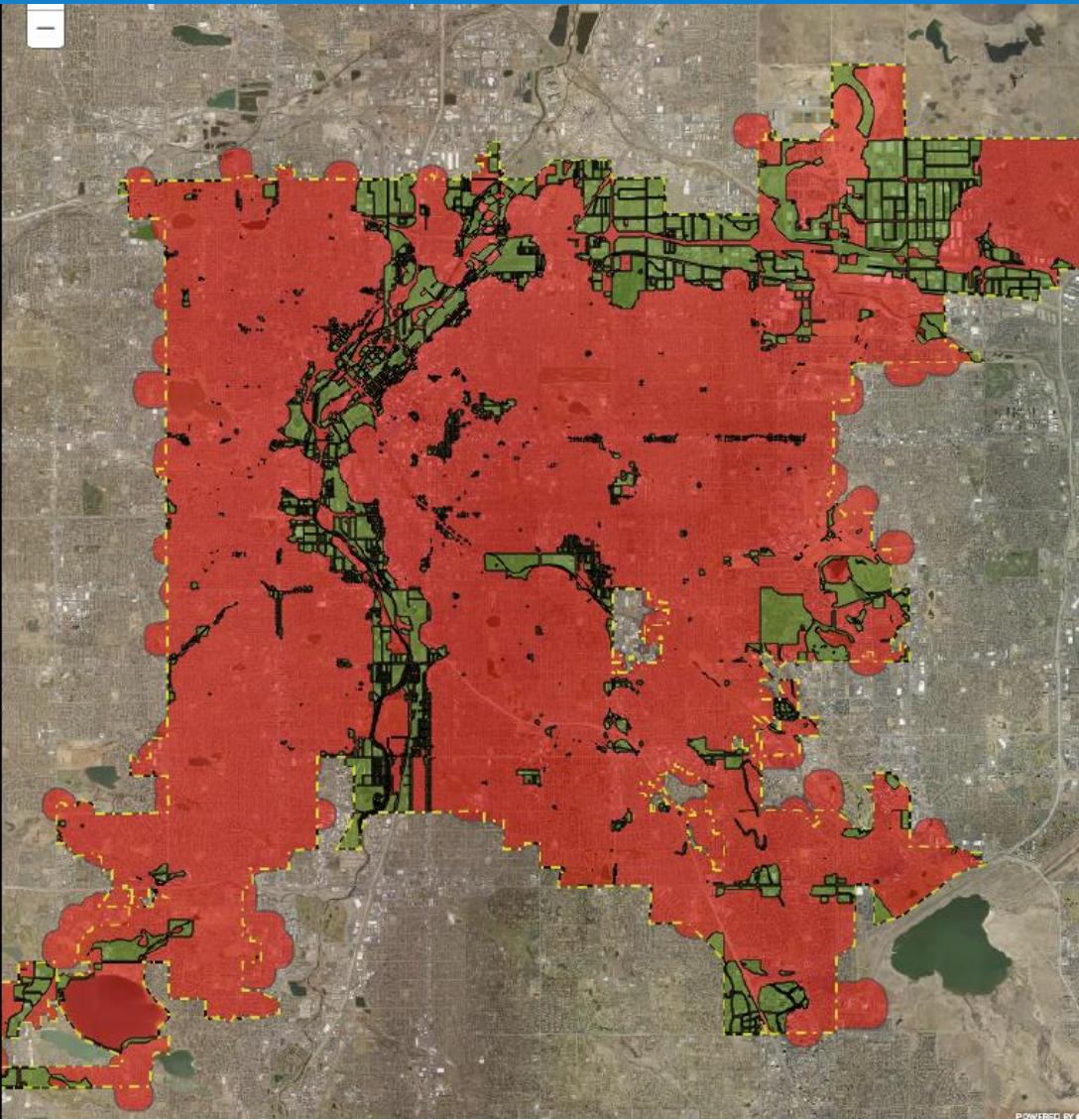


DCA-eligible vs. Liquor-licensed Locations

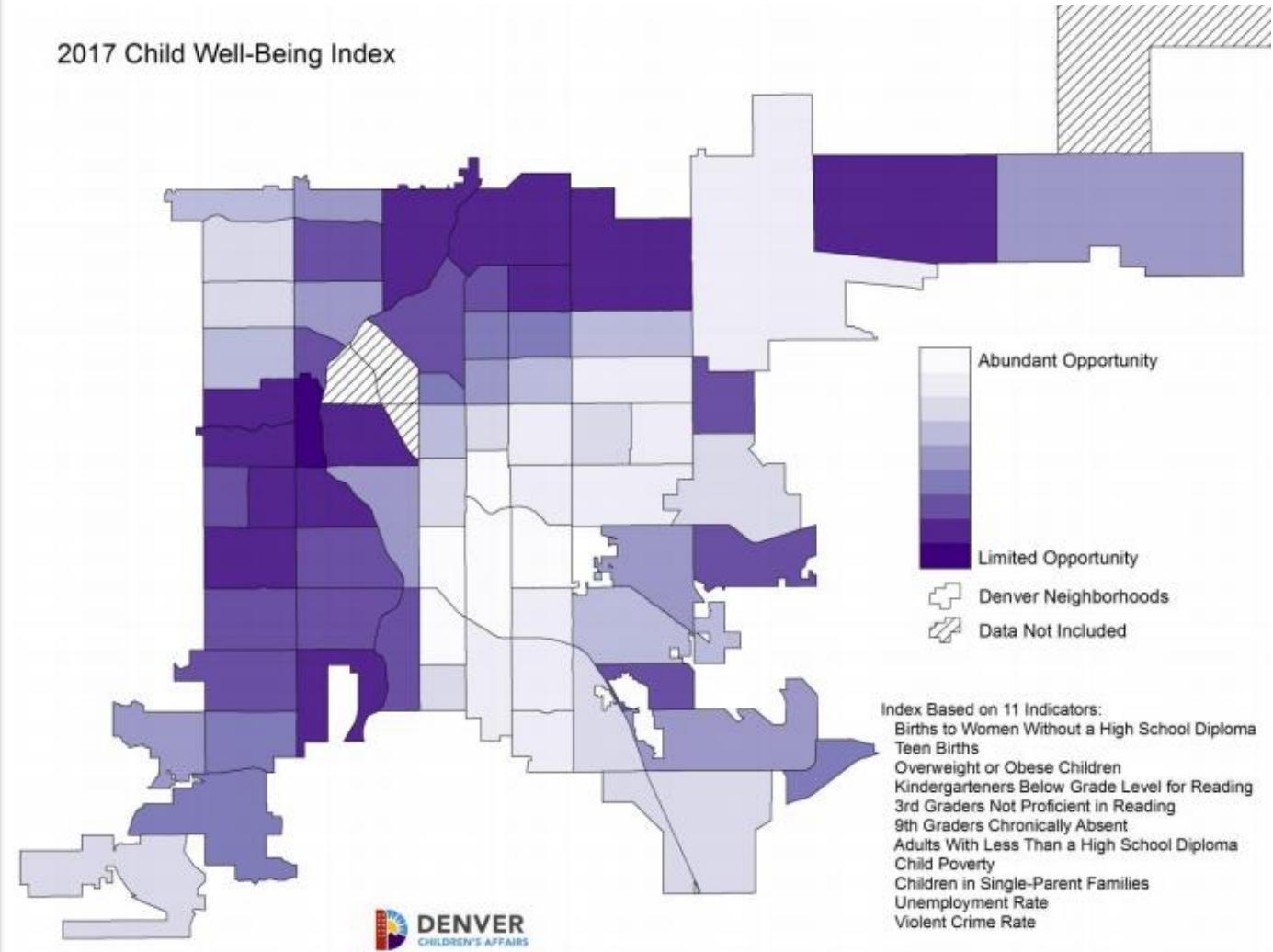




DCA-eligible locations vs. Child Well-Being Index Map



2017 Child Well-Being Index



TASK FORCE GOALS:

1. Report the impacts of I-300 on the city to the City Council.
2. Make recommendations to the City Council to:
 - Honor the will of the voters by providing a viable pathway for social consumption businesses to operate in Denver.
 - Protect the health, safety and welfare of residents and neighbors by providing legal and safe places for consumption that are out of public view.

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.

*Honor the
will of the voters:
168,995 people
voted in favor of the
ordinance in 2016*



Social Consumption Area Task Force (Summer 2018)

Members

- Councilwoman Kendra Black (Chair)
- Carrie Atiyeh, Director of Government & Community Affairs for Visit Denver
- Councilman Jolon Clark
- Tom Downey, Attorney at Ireland/Stapleton
- Andrew Gehauf, Overland Registered Neighborhood Organization (RNO) Representative
- Logan Goolsby, Chief Compliance Officer for Euflora
- Dean Heizer, Principal Attorney for LivWell
- Wanda James, Owner of Simply Pure
- Sam Kamin, Vicente Sederberg Professor of Marijuana Law & Policy at the University of Denver Sturm College of Law
- Aubrey Lavizzo, La Alma/Lincoln Park Registered Neighborhood Organization (RNO) Representative
- Christian Sederberg, Founding Partner & Attorney at Vicente Sederberg and author of Initiative 300
- Cindy Sovine, Owner of Utopia All Natural Spa & Lounge and Sovine Consulting
- Christopher Stefan, Principal for Desarollo Real Estate
- Councilwoman Mary Beth Susman
- Leslie Twarogowski, Executive Director of the Federal Boulevard Business Improvement District
- Margie Valdez, Inter-Neighborhood Cooperation (INC) Representative

Meetings

- May 10
- June 14
- July 12
- August 9
- September 13
- Public comment took place at the first, second, fourth and fifth meetings.
- All meetings were held from 9-10:30 AM in the City & County Building, Room 391.

Communication

Email: socialconsumptionTF@denvergov.org

Website: bit.ly/socialconsumptiontaskforce

Social Consumption Area Task Force Report Findings

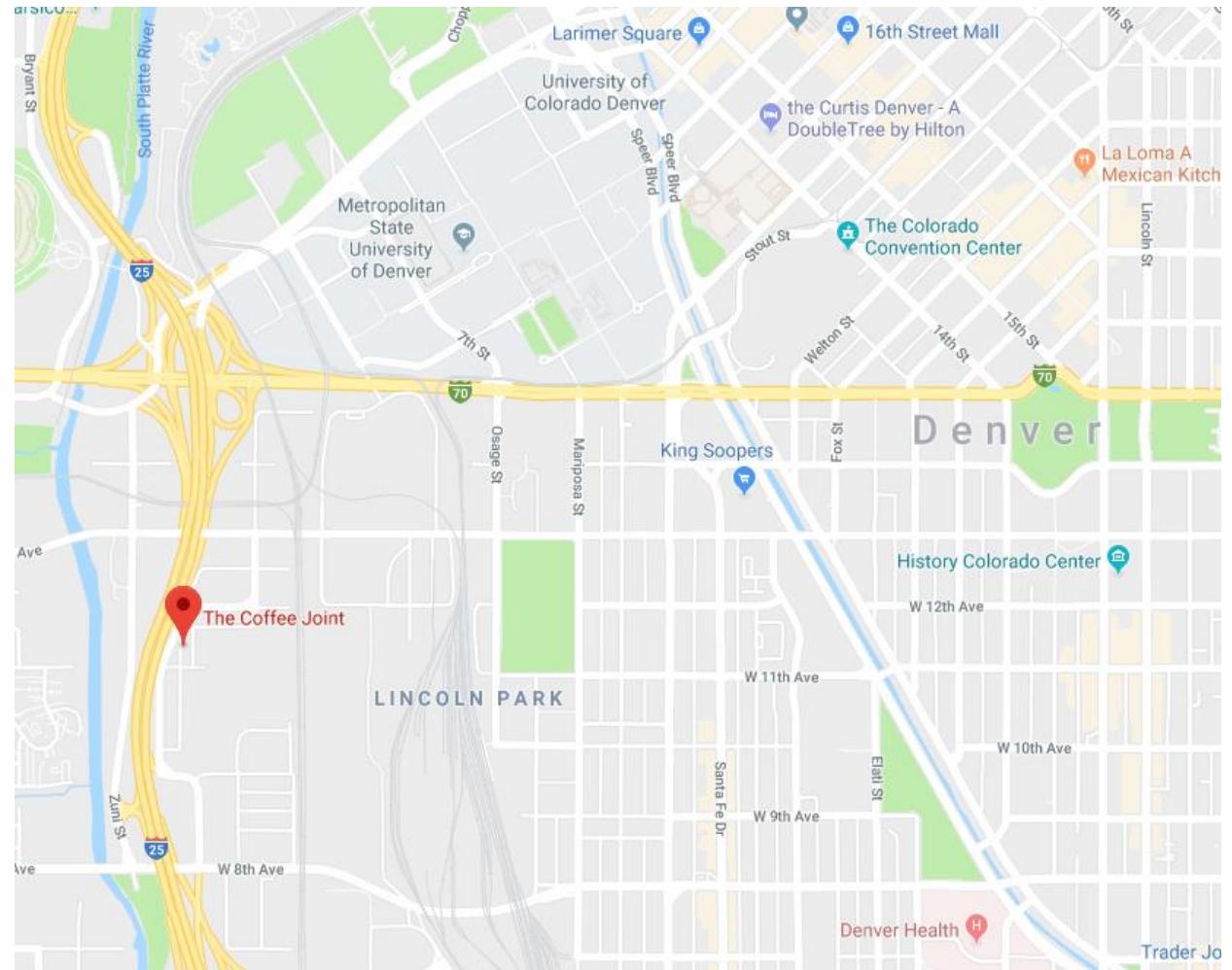
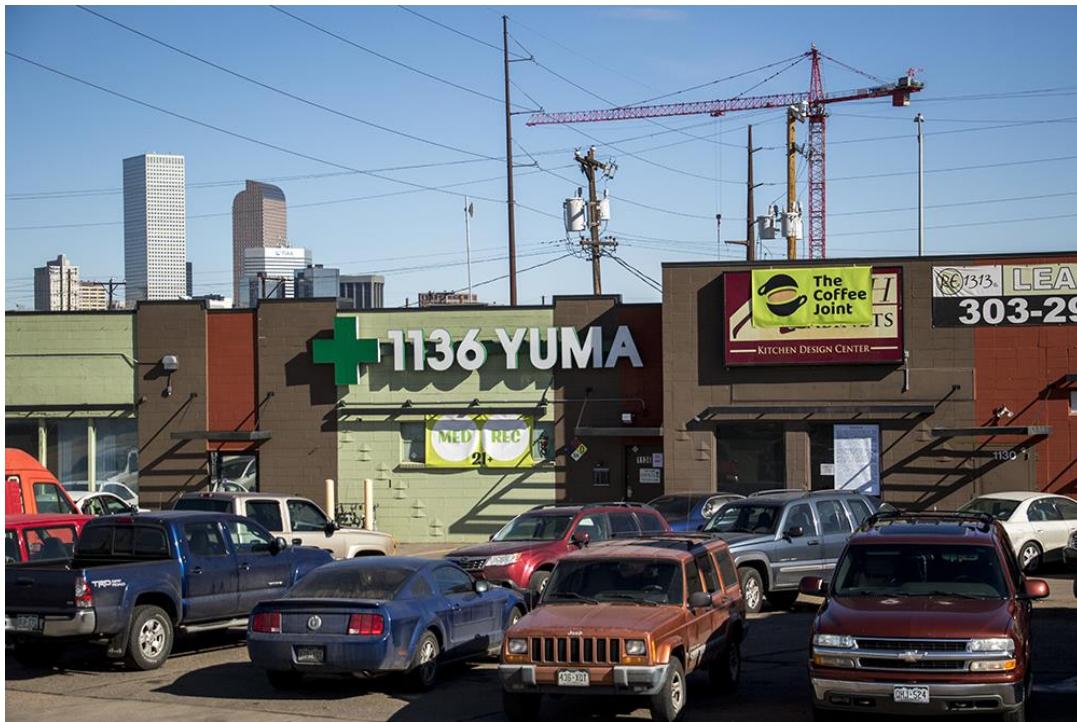
- 3 business applications submitted; 2 permits issued
 - The Coffee Joint (operating in La Alma/Lincoln Park neighborhood since March 2018)
 - Vape & Play (expected to open Q1 of 2019)
- 0 special event applications submitted; 0 permits issued
- No impacts on the city have been reported
 - Christine Sprague, President of La Alma/Lincoln Park RNO, reported there are no impacts on the neighborhood.

- **Values:**
 - Honoring the will of the voters
 - Mitigating illegal public consumption
 - Protection of health, safety and welfare of residents & neighborhoods
 - Business fairness

#6, Confluence Park, #5 City Park, #4 Red Rocks Amphitheatre
“10 Best Places to Smoke Weed in Denver” – *Green Rush Daily*,
September 1, 2017 (cannabis-oriented online publication)



The Coffee Joint – Rita Tsalyuk



Social Consumption Area Task Force Report Findings

- **Distance Requirements:** Through interviews with interested potential applicants and a careful study of maps showing the impacts of distance requirements, it is evident that the additional distance requirements set by Excise & Licenses are thwarting the intent of the voter-approved initiative by restricting available locations.
- **Business Model:** No pre-existing business has applied for a permit.
 - The two permitted businesses are both new businesses created to take advantage of the opportunity to have social consumption.
 - The Coffee Joint successfully added a door that provides access between The Coffee Joint and the neighboring dispensary, 1136 Yuma.
- **Special Events:** Anecdotal reports suggest that event organizers are not willing to give up their liquor permit and potential liquor sales. Additional concerns were expressed about the length of time it takes to receive a special event permit, especially as compared to liquor special event permits.
 - Social Consumption Special Event applications: Due at least 120 days in advance of the event.
 - Liquor Special Event applications: Due at least 30 days in advance of the event.
- **Sunset:** The temporary nature inhibits investment, particularly given the time and expense associated with Excise & Licenses applications, zoning and building permit applications, build out and associated inspections.
 - Set to expire on December 31, 2020.
- **Fees:** \$1000 application fee and \$1000 annual permit fee (for a business) deemed reasonable.
 - Fees for cannabis consumption special events not aligned with fees for liquor consumption special events.



PUBLIC COMMENT: SOCIAL CONSUMPTION AREA TASK FORCE FINAL REPORT & RECOMMENDATIONS



Social Consumption Area Task Force Report Recommendations

Distance Requirements

Recommendation 1: Maintain all the current 1000-foot setbacks, but allow applicants to seek an exception to a distance requirement by showing support from the subject of the setback. For example, if an applicant meets all requirements, but falls short of the 1000-foot setback from a daycare, the applicant can seek a letter of support or non-opposition from the daycare thereby granting an exception. The letter would remain on file with Excise & Licenses and would not need to be resubmitted on an annual basis.

OR

Recommendation 2: Honor the will of the voters by adhering to the distance requirements that were set forth in the ballot language (1000 feet from schools) and removing the additional distance requirements added by Excise & Licenses (1000 feet from day cares, treatment centers and pools/recreation centers.)

Social Consumption Area Task Force Report Recommendations

- **Special Events:** Reduce the permitting and application fees for special events to be consistent with the fees for Liquor Special Events permits (\$100 application fee plus modest daily fees.)
 - Align special event permit application window with special event liquor license window (application due within 30 days of the event rather than 120 days).
 - All other rules should remain consistent for social consumption establishments and special events.
- **Sunset:** Eliminate the 2020 sunset to increase opportunities for investment.
 - With only two permits being issued in two years, the pilot program has not had the opportunity to succeed.
 - If deemed unsuccessful or harmful, the Council can repeal.
- **Fees:** As with special event liquor licenses, special event permit fees should be lower than for permanent establishments (see above).



Social Consumption Area Task Force Report Recommendations

During the task force meetings, other types of viable business models for cannabis consumption were discussed that did not meet the criteria to apply for a social consumption permit. **The Task Force recommends looking into the creation of rules and regulations around the following business models:**

- **Tasting Rooms or on-site consumption in dispensaries**
 - Would allow for consumption at an existing dispensary, but would not increase the “marijuana footprint” in Denver by opening an additional location.
- **Private clubs**
 - Unlicensed clubs currently operating within the City & County of Denver.
 - Should be regulated to protect the health, safety and welfare of residents, employees and patrons and to bolster the viability of legally operating I-300 businesses.
- **Bus tours**
 - Should be licensed and regulated.
 - Fulfill a need for tourists and other interested consumers.
 - Currently being litigated.

Social Consumption Area Task Force Report Recommendations

Other outstanding issues:

- The state has not defined “open and public,” which has resulted in confusion and enforcement issues.
 - For clarity in developing policy and rules, the state needs to define “open and public.”
- Smoking is the most popular form of consumption.
 - The Colorado Clean Indoor Air Act prohibits indoor smoking.
 - Should there be any exemptions from the Colorado Clean Indoor Air Act for private clubs?
 - Rules created challenges for a business to allow **outdoor** smoking (odor mitigation and visibility).
- The state Liquor Enforcement Division rule prohibiting marijuana use in business with a liquor license has prevented some interested business owners from applying.
 - Should the state reconsider the Liquor Enforcement Division rule prohibiting marijuana use in business with a liquor license?

“...many entrepreneurs say they have no choice but to stay away from social cannabis consumption in order to keep their alcohol revenue.”

“Social Cannabis Use Areas: If Weed Really Were Treated Like Alcohol” – *Westword*, June 18, 2018



2019 Legislative Session: Representative Jonathan Singer, HD 11



OPTION 1: DO NOTHING. ALLOW SUNSET TO EXPIRE IN 2020.*

OPTION 2: MOVE FORWARD WITH 1 OR MORE OF THE TASK FORCE'S RECOMMENDATIONS TO REPAIR I-300 THROUGH COUNCIL (WILL REQUIRE A SUPERMAJORITY VOTE TO CHANGE THE ORDINANCE OR ADDITIONAL RULES).

OPTION 3: ASK THE MAYOR & EXL TO MAKE CHANGES THAT ALIGN WITH THE RECOMMENDATIONS.

OPTION 4: REPEAL I-300 AND REPLACE WITH COMPREHENSIVE CANNABIS SOCIAL CONSUMPTION POLICY.

OTHER?

*Legislation likely in 2019 State Legislative Session