

1 **BY AUTHORITY**

2 ORDINANCE NO. _____

COUNCIL BILL NO. CB21-0217

3 SERIES OF 2021

COMMITTEE OF REFERENCE:

4 Finance & Governance

5
6 **A BILL**

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

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

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

14 **Sec. 6-204. – Defined terms.**

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

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

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

22 (232) 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. – License or permit required; classes of licenses authorized.**

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

31 (1) Medical marijuana store license;

32 (2) Medical marijuana delivery permit;

33 (3) Medical marijuana cultivation facility license;

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

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

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

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

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

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

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

33 (4) A marijuana hospitality business licensee shall not allow any person to consume

1 or display marijuana, marijuana concentrate, or marijuana products outside of a consumption area
2 or any place that is visible from outside of the consumption area.

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

7 (6) 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 or the department.

10 (7) A marijuana hospitality business licensee shall not allow on-duty employees of the
11 business to consume any marijuana, marijuana concentrate, or marijuana product on the licensed
12 premises.

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

15 (9) A marijuana hospitality business licensee shall not allow any person under the age
16 of twenty-one (21) on the licensed premises. Government-issued identification must be required
17 from all patrons before the patron is allowed access into the licensed premises.

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

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

26 (c) *Licensing requirements—mobile premises.* In addition to the requirements for all
27 marijuana hospitality businesses identified in subsection (b), marijuana hospitality businesses on
28 mobile premises shall comply with the following provisions:

29 (1) A mobile marijuana hospitality business licensee shall not permit the consumption
30 of marijuana on the moibile premises if the mobile premises is stopped, standing, or parked for more
31 than 30 minutes.

32 (2) A mobile marijuana hospitality business shall file a route log with the department
33 identifying the origin and destination of all routes, and all stops in between the origin and the

1 destination, at least seven (7) business days prior to the scheduled departure. A marijuana
2 hospitality business shall not change or deviate from the route log without notifying the department
3 at least seven (7) business days prior to scheduled departure. Identified origins, destinations, and
4 stops may not include any of the following locations:

5 a. Schools;

6 b. Child care establishments;

7 c. Alcohol or drug treatment facilities; or

8 d. City-owned recreation centers and pools.

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

11 (4) A mobile marijuana hospitality business shall ensure that the motor vehicle has no
12 external markings, words, or symbols that constitute advertising as defined in section 6-204(1).

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

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

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

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

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

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

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

8 (7) The proximity restrictions identified in this subsection (d) shall not apply to the
9 mobile premises of a marijuana hospitality business.

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

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

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

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

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

22 (5) The location restrictions identified in this subsection (e) shall not apply to the mobile
23 premises of a marijuana hospitality business.

24 (f) Public hearing—required. A public hearing in compliance with section 6-209 shall be
25 required prior to the issuance of a marijuana hospitality business license at a fixed location, but shall
26 not be required for an application proposing to operate a marijuana hospitality business solely on a
27 mobile premises. The requirements for public notice, posting, publication, conduct, results of
28 investigation, and decision of the director shall be the same as those for medical and retail marijuana
29 stores.

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

31 (a) Licensing requirements. Beginning July 1, 2021, a local retail marijuana hospitality and
32 sales business license may be issued to allow for the sale and on-premises consumption of
33 regulated marijuana at a fixed location, subject to the provisions of this article V and the Colorado

1 Marijuana Code. In addition to the provisions applicable to all licenses, all retail marijuana hospitality
2 and sales business licensees shall comply with the following provisions:

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

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

10 (3) A retail marijuana hospitality and sales business licensee shall not allow any
11 person to consume or display marijuana, marijuana concentrate, or marijuana product outside of a
12 consumption area or any place that is visible from outside of the consumption area.

13 (4) A retail marijuana hospitality and sales business licensee may allow smoking of
14 regulated marijuana in indoor and outdoor portions of the licensed premises. Marijuana smoking
15 indoors and outdoors must occur in compliance with an Odor Control Plan filed pursuant to section
16 4-10 of this Code and approved by the department of public health and environment.

17 (5) A retail marijuana hospitality and sales business licensee shall ensure that all
18 areas of ingress and egress to the consumption areas are clearly identified and posted with signs
19 and warnings required by state law.

20 (6) A retail marijuana hospitality and sales business licensee shall not allow on-duty
21 employees of the business to consume any marijuana, marijuana concentrate, or marijuana product
22 within the licensed premises of the business.

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

25 (8) A retail marijuana hospitality and sales business licensee shall not allow any
26 person under the age of twenty-one (21) into the licensed premises. Government-issued
27 identification must be required from all patrons before the patron is allowed access into the licensed
28 premises.

29 (9) A retail marijuana hospitality and sales business licensee shall not permit the use
30 or consumption of marijuana, marijuana product, or marijuana concentrate by a patron who displays
31 any visible signs of intoxication.

32 (10) A retail marijuana hospitality and sales business licensee shall not transfer, sell,
33 or otherwise distribute more regulated marijuana in a single transaction to a consumer than the

1 lawful amounts related to possession and sale set forth in state law. A single transaction includes
2 multiple transfers, sales, or distributions to the same consumer during the same business day where
3 the medical or retail marijuana store employee knows or reasonably should know that such transfer,
4 sale, or distribution would result in that consumer possessing or being sold more than the amounts
5 set forth in state law.

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

11 (12) Beginning January 1, 2022, retail marijuana hospitality and sales business
12 licensees shall install and use a safe in a limited access area, which shall be incorporated into the
13 building structure or securely attached thereto, for overnight storage of all processed cannabis and
14 cash. For marijuana-infused products that must be kept refrigerated or frozen, the establishment
15 may lock the refrigerated container or freezer, so long as the appliance is affixed to the building
16 structure. Alternatively, a business may utilize security devices such as vaults, strong rooms or other
17 security features that are functionally equivalent to a safe as determined by Department rule.

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

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

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

27 (3) Any other retail marijuana hospitality and sales business licensed pursuant to this
28 article V, with the distance computed by direct measurement in a straight line from the nearest
29 external portion of the building within which one (1) retail marijuana hospitality and sales business
30 is located to the nearest external portion of the building in which the other retail marijuana hospitality
31 and sales business is proposed to be located. In the event that the department receives two or more
32 applications for a retail marijuana hospitality and sales business with proposed locations within one
33 thousand (1,000) feet of each other, the director shall act upon only the first complete application

1 received and shall not issue a license to all subsequent applications.

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

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

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

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

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

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

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

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

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

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

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

31 (b) Cease operations—required. Except where the director has received a complete renewal
32 application along with the requisite fees, it shall be unlawful for any person to manufacture, test,
33 consume, receive orders for, sell, distribute, transfer, transport, or otherwise remove cannabis from

1 the licensed premises of a medical or retail marijuana business, or allow any other person to perform
2 these acts, after the expiration date recorded upon the face of any local license issued pursuant to
3 this article V for that location.

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

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

7 (2) The applicant or licensee fails to prove by a preponderance of the evidence that
8 the reasonable requirements of the neighborhood and the desires of the adult inhabitants therein
9 support the issuance of a medical or retail marijuana store license, marijuana hospitality business
10 license, or retail marijuana hospitality and sales business license;

11
12 **Section 2.** Article II of Chapter 4 shall be amended by deleting the words stricken and adding
13 the language underlined to read as follows:

14 **Sec. 4-10. - Nuisance.**

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

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

- 20 a. Pet food manufacturing;
- 21 b. Marijuana growing, processing, ~~or~~ manufacturing, or consumption, as
22 provided in Chapter 6;
- 23 c. Rendering and meat byproduct processing;
- 24 d. Asphalt shingle and coating materials manufacturing;
- 25 e. Petroleum refining;
- 26 f. Sewage treatment;
- 27 g. Wood preservation;
- 28 h. Any other activity determined by the board through a rulemaking to cause,
29 or be likely to cause, nuisance odors.

30
31 **Section 3.** Article II of Chapter 33 shall be amended by deleting the words stricken and
32 adding the language underlined to read as follows:

33 (b) Application and license fees for retail marijuana businesses, retail marijuana off-premises

1 storage facilities, and retail marijuana delivery permits shall be as follows:

2 (1) Application fee for marijuana hospitality business and retail marijuana hospitality
3 and sales business:

4 a. Social equity licensees \$0.

5 b. Non-social equity licensees 1,000.00.

6 ~~(24)~~ Application fee for retail marijuana off-premises storage facility:.

7 a. Social equity licensees \$0.

8 b. Non-social equity licensees 500.00.

9 ~~(32)~~ Annual license fee for retail marijuana businesses:

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

11 b. Non-social equity licensees3,000.00.

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

14 ~~(53)~~ Annual license fee for retail marijuana off-premises storage facility:

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

16 b. Non-social equity licensees3,000.00.

17 ~~(64)~~ Criminal background check feeactual costs.

18 ~~(75)~~ Transfer of ownership fee\$250.00, plus actual cost of background check.

19 ~~(86)~~ Change of location fees:

20 a. Retail marijuana stores, marijuana hospitality businesses, and retail
21 marijuana hospitality and sales businesses\$1,500.00.

22 b. All other retail marijuana business licenses1,000.00.

23 ~~(97)~~ Modification of premises\$300.00.

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26 [BALANCE OF PAGE INTENTIONALLY LEFT BLANK]
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1 COMMITTEE APPROVAL DATE: March 16, 2021
2 MAYOR-COUNCIL DATE: March 23, 2021 by Consent
3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: April 8, 2021

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kristin Bronson, Denver City Attorney

16 BY: _____, Assistant City Attorney DATE: _____

17