

## Draft Social Consumption Rules and Regulations

### ARTICLE I – GENERAL PROVISIONS

1. Authority. These rules and regulations are adopted by the City and County of Denver’s Director of the Department of Excise and Licenses pursuant to Article IV of Chapter 2, Article VI of Chapter 6, Article V of Chapter 6, and Article I of Chapter 32 of the Denver Revised Municipal Code of the City and County of Denver. These rules and regulations are adopted for the purpose of administering and enforcing the provisions of the Cannabis Consumption Pilot Program and any other ordinances or laws relating to and affecting the issuance and operation of cannabis consumption permits.
2. Severability. Should any section, clause, or provision of these regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part declared to be invalid.
3. Definitions. For purposes of these Rules:
  - a. *"Advertise," "Advertising" or Advertisement"* means the act of drawing the public's attention to promote the Designated Consumption Area (DCA).
  - b. *"Applicant"* means a person who has applied for a cannabis consumption permit.
  - c. *"Cannabis,"* as used in these Rules, shall have the same meaning as the term "marijuana" is defined in section 16(2)(f) of Article XVIII of the Colorado Constitution. This term will be used in conjunction with or as an alternative to marijuana in these rules and regulations.
  - d. *"Cannabis consumption accessory"* means 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.
  - e. *"Cannabis Consumption Permit"* means a Cannabis Consumption Business Permit or a Cannabis Consumption Special Event Permit.
  - f. *"Cannabis Consumption Business Permit"* means an annual permit issued by the Director to an individual(s) or entity allowing for the consumption of marijuana in a Designated Consumption Area located inside of or adjacent to a licensed premise or other business.
  - g. *"Cannabis Consumption Special Event Permit"* means a permit issued by the Director to an individual(s) or entity allowing for the consumption of marijuana in a Designated Consumption Area temporarily located: (i) on or adjacent to a licensed premise or other business, or (ii) not located on or adjacent to a licensed premise or other business.

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- h. “*Child care establishment*” means any child care establishment as defined by and regulated under chapter 11 of the Code and licensed as such under applicable state and local law.
- i. “*City*” means the City and County of Denver, State of Colorado.
- j. “*City-owned Recreational Center*” and “*City-owned Outdoor Pool*” means all recreational centers and pools as defined in Chapter 39 of the Code, and any rules and regulations promulgated thereto.
- k. “*Code*” means the Denver Revised Municipal Code.
- l. “*Consumer*” means a person, twenty-one (21) years of age or older, who wishes to engage in the consumption of cannabis within a Designated Consumption Area.
- m. “*Department*” means the Denver Department of Excise and Licenses.
- n. “*Director*” means the Director of the Department of Excise and Licenses, or the Director’s designee.
- o. “*Designated Consumption Area (DCA)*” means a specific, designated location where consumption of cannabis is expressly permitted.
- p. “*Eligible Neighborhood Organization*” means 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.
- q. “*Evidence of Community Support*” means any of the following forms of documentation; provided that such documentation is authorized by an officer, director, or agent of one or more Eligible Neighborhood Organizations:
  - i. A letter of community support or non-opposition;
  - ii. A document or other written communication indicating community support or non-opposition;
  - iii. A good neighborhood agreement; or
  - iv. 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.
- r. “*Licensed Marijuana Establishment*” means a medical marijuana center, medical marijuana infused products manufacturer, optional premises, or medical marijuana transporter as those terms are defined in § 12-43.3-104, C.R.S., as

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amended, or a retail marijuana establishment or retail marijuana transporter as those terms are defined in § 12-43.4-103, C.R.S., as amended.

- s. *“Liquified petroleum gas (LPG)”* means a material which is composed predominantly of the following hydrocarbons or mixtures of them: propane, propylene, butane (normal butane or isobutane) and butylene.
- t. *“Place where children congregate”* means schools and child care establishments, as defined herein, playgrounds, and other places intended for use primarily by persons under 18 years of age.
- u. *“Permitted Premises”* means the Designated Consumption Area specified on a Cannabis Consumption Business Permit or a Cannabis Consumption Special Event Permit.
- v. *“Permittee or Permit Holder”* means a person or entity who receives a Cannabis Consumption Business Permit or Cannabis Consumption Special Event Permit.
- w. *“Permit”* shall mean a Cannabis Consumption Business Permit or Cannabis Consumption Special Event Permit.
- x. *“Person”* includes any individual, natural person, firm, company, association, organization, partnership, or corporation.
- y. *“Public Place”* shall mean a place to which the public or a substantial number of the public have access without restriction, and includes, but is not limited to, streets and highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings or facilities.
- z. *“Rules”* means these Rules and Regulations Governing Cannabis Consumption Business Permits and Cannabis Consumption Special Event Permits.
- aa. *“School”* means a public or private preschool or a public or private elementary, middle, junior high, or high school.
- bb. *“Smoking”* means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains cannabis, but does not include Vaping.
- cc. *“Vaping”* means the creation of vapor by an electronic cigarette or similar device.
- dd. *“Waste”* means any marijuana product which remains on the Permitted Premises which has been left, abandoned, or otherwise not consumed.

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### ARTICLE II – APPLICATION REQUIREMENTS

#### 1. Application.

- a. All applications for a Cannabis Consumption Permit shall be made upon forms provided by the Department, and shall include any supplemental information required by the Director.
- b. The Department will accept only complete applications. Complete applications must include, at a minimum, each of the following:
  - i. The full address of the DCA.
  - ii. The name, address, email (if applicable), and date of birth of the applicant, including all officers, partners, members, or any other person who owns 5% or receives 5% or more of the profits of the entity, as well as all entity names and any trade names or assumed names.
  - iii. For each person described above in paragraph ii of this Article II, section 1.b., a national criminal history records check conducted by the Federal Bureau of Investigation upon submission of fingerprint records and all required documents.
  - iv. The name, address, email (if applicable), and date of birth of the onsite manager(s).
  - v. A red-lined floor plan of the DCA showing the location of the DCA within the business or event.
  - vi. A detailed description and supporting evidence that the DCA complies with the Colorado Clean Indoor Air Act. C.R.S. § 25-14-201 *et seq.*
  - vii. Proof of possession of the premises where the DCA is located that encompasses all dates of the DCA's operation and, if the premises are leased, permission from the Owner of the Premises approving the applicant's use of the DCA for cannabis consumption.
  - viii. Evidence of Community Support, including any additional restrictions on advertising and operational requirements attached thereto, as provided by an Eligible Neighborhood Organization.
  - ix. A description of the proposed hours of operation and, for all special event applications, the proposed duration of the permit.
  - x. A security plan to control and monitor potential criminal activity on the premises.

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- xi. A responsible operations plan which shall include a detailed explanation of how employees will prevent over-intoxication, underage access to the DCA, driving under the influence of marijuana, and the illegal distribution of marijuana and marijuana products within the DCA.
  - xii. A documented employee training program that addresses all components of the responsible operations plan.
  - xiii. A health and sanitation plan for sanitization and cleaning of cannabis consumption accessories to be rented, if applicable.
  - xiv. A marijuana waste plan that includes a detailed description of how employees will dispose of any Waste that is left, abandoned, or otherwise not consumed on the premises.
  - xv. A Community Engagement Plan as provided in D.R.M.C. § 6-210(b).
  - xvi. An Odor Control Plan as provided in D.R.M.C. § 4-10, and any rules promulgated thereto, if the Applicant intends to allow Smoking or Vaping of marijuana within the DCA.
  - xvii. A ventilation plan, if the Applicant intends to allow Vaping of marijuana within the proposed DCA situated in an indoor location.
  - xviii. Additionally, all Cannabis Consumption Special Event Permit applications must include a description and proposed dates of the event.
2. Additional Information. An applicant shall provide any additional information requested by the Department. Unless otherwise specified, additional information must be provided to the Department no later than seven (7) days after the request is made. Applications that do not contain the additional information shall be deemed incomplete.
3. Process for Issuing a New Cannabis Consumption Permit.
- a. Each Applicant shall provide, at the time of application, the information required by D.R.M.C. § 6-308 and these rules.
  - b. Upon receipt of an application, the Director shall give notice to the Department of Community Planning and Development, the Department of Environmental Health, and the Denver Fire Department. Any applicant for a Permit shall obtain all necessary permits, licenses and other regulatory approvals from the other affected city departments and agencies prior to the issuance of a Permit.
  - c. Upon receiving a complete application, the Director shall schedule a public hearing as provided in Article VI of these Rules.

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### 4. Additional Requirements

- a. Prior to the issuance of any Permit and upon review of a criminal background check, the Director shall make a finding and determination as to the good moral character of the Applicant.
- b. Each Applicant shall provide suitable evidence of proof of lawful presence and good character for each owner and manager.
- c. A Permit issued by the Department constitutes a revocable privilege. The burden of proving an Applicant's qualifications for a Permit rests at all times with the Applicant.
- d. A Cannabis Consumption Permit is non-transferable. Such Permit is not valid at any other location nor may any other Person exercise the privileges of said Permit, directly or indirectly.
- e. A Permit for a Cannabis Consumption Special Event may not be issued to any applicant for more than ten (10) days in one (1) calendar year. A Cannabis Consumption Special Event Permit is not valid for any other date except the date or dates listed on the Application.

### **ARTICLE III – RESTRICTIONS ON APPLICATIONS FOR NEW PERMITS**

1. General Permit Restrictions. A Cannabis Consumption Permit shall be issued only for a DCA that complies with the following requirements:
  - a. All entrances to the DCA are monitored constantly by the Permit Holder or designee at all times when the DCA is being used for cannabis consumption.
  - b. Government-issued identification is required from all patrons before they are allowed access into the DCA.
  - c. Access to the DCA is restricted to persons age 21 and older.
  - d. The DCA is not visible to the public from a public place.
  - e. The DCA requires all patrons entering to sign an acknowledgement as described in Article V2 of these Rules.
  - f. A Cannabis Consumption Special Event Permit is not proposed to be located at an event that also has a special event liquor permit.
2. Permit Proximity Restrictions. No Permit shall be issued within 1,000 feet of the following locations:

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- a. 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 in which the DCA is located; or
  - b. Child care establishments, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the childcare establishment to the nearest portion of the building in which the DCA is proposed to be located.
  - c. Alcohol or drug treatment facility, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the alcohol or drug treatment facility to the nearest portion of the building in which the DCA is proposed to be located.
  - d. City-owned recreation center or city-owned outdoor pools, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the recreation center or outdoor pool to the nearest portion of the building in which the DCA is proposed to be located.
3. Permit Location Restrictions. No Permit shall be issued for the following locations:
- a. Any School.
  - b. Child care establishment.
  - c. Alcohol or drug treatment facility.
  - d. Any premise licensed pursuant to Title 12, Article 46, Article 47, or Article 48, and any location where such liquor license exists, defined as the particular parcel of land identified by a distinct street address assigned by the City in accordance with article IV of chapter 49 of the Code, regardless of units, suites, rooms, or other similar descriptor, unless the alcohol is not being served while the DCA is operating.
  - e. Any Licensed Marijuana Establishment or any location where such Licensed Marijuana Establishment exists, defined as the particular parcel of land identified by a distinct street address assigned by the City in accordance with article IV of chapter 49 of the Code, regardless of units, suites, rooms, or other similar descriptor.
  - f. Any location deemed public property and owned by the City.
  - g. Any location that is situated in a residential zone district as defined by the zoning code of the City.

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### ARTICLE IV – INSPECTIONS

1. All City inspectors, investigators, and police shall be permitted access to the DCA at all times to inspect the premises in accordance with their duties and to enforce City ordinances, and any rules and regulations promulgated pursuant thereto.
2. It shall be unlawful for a Permittee, or any agent or employee thereof, to refuse such access to the premises or to hinder any investigation, visitation, or inspection.
3. A Permittee must maintain the information required in these Rules in a format that is readily understood by a reasonably prudent business person. A Permittee must provide access to on-premises records during normal business hours or apparent hours of operation, and must provide access to off-premises records within three (3) business days following a request from the Department.

### ARTICLE V – OPERATIONAL REQUIREMENTS

1. Security.
  - a. Age Verification & Door Security. A Permittee shall employ sufficient staff so that all entrances to the DCA are monitored constantly at all times when the DCA is being used for cannabis consumption.
    - i. Government-issued identification must be required from all patrons before they are allowed access into the DCA.
    - ii. Access to the DCA must be restricted to persons age 21 or older.
  - b. Background Checks. A Permittee shall ensure that a NCIC background check is completed for all owners and managers, including fingerprinting. Background checks shall be kept for a period of one (1) year, and be made available to the Department upon request.
2. Acknowledgement. Permittees shall ensure that all patrons entering the DCA sign an acknowledgement, on forms approved by the Director, that declares, at minimum, that the patron: is responsible for his/her own actions, will consume responsibly, will not drive impaired, and will not sell or distribute marijuana for remuneration.
3. Waste. Permittees shall dispose of Waste in a secured waste receptacle in possession and control of the Permittee.
4. Ventilation. A DCA shall maintain at all times a ventilation plan if Vaping will be allowed in the DCA, and an Odor Control Plan as provided in D.R.M.C. § 4-10, and any rules promulgated thereto;



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### 5. Advertising

- a. Misleading Advertising. No Permittee shall use any advertising material that is misleading, deceptive, or false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors.
- b. Public Advertising. Except as otherwise provided below, it shall be unlawful for any person to advertise a DCA anywhere in the city where the advertisement is visible to members of the public from any street, sidewalk, park or other Public Place, including advertising utilizing any of the following media: Any billboard or other outdoor general advertising device as defined by the Denver Zoning Code; any sign mounted on a vehicle, any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a Public Place, left upon a motor vehicle, or posted upon any public or private property without the consent of the property owner. The prohibition set forth in this paragraph shall not apply to:
  - i. Advertising inside a Licensed Marijuana Establishment;
  - ii. Any fixed sign located within a DCA which exists solely for the purpose of identifying the location as a DCA and which otherwise complies with any other applicable city laws and regulations; or
  - iii. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the city; or
  - iv. Limited advertising which is purely incidental to sponsorship of a charitable event by a Permittee.

### 6. Required signage.

- a. Standardized Placard. Any location operating a DCA shall be clearly marked with a standardized placard conspicuously posted at all exterior entrances to the location. The standardized placard shall be posted no later than 3 hours prior to the opening of the DCA and shall be in a format as required by the Department.
- b. Access Restriction. All DCAs must be clearly marked as required by ordinance, 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.

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### ARTICLE VI – PUBLIC HEARING REQUIREMENT

1. Authority. Section 6-316(b) of the Code authorizes the Director to create additional methods of obtaining community support. Therefore, in addition to the methods specified in Article VI of Chapter 6, applications for a DCA shall be scheduled for a public hearing pursuant to these Rules.
2. Public Hearing Required.
  - a. All applications for a Cannabis Consumption Business Permit shall be scheduled for a public hearing not less than thirty (30) days from the date of the application.
  - b. Applications for a Cannabis Consumption Special Event Permit may be scheduled for a public hearing if requested by parties-in-interest, as defined in § 6-212 of the Code. Such request must be submitted in the form of a petition prepared by the Department and must contain at least ten (10) valid signatures gathered within ninety (90) days of the event date.
3. Hearing procedures. Procedures, posting requirements, and standards for public hearings held for Cannabis Consumption Permits shall be conducted in accordance with §6-212 of the Code and the Policies and Procedures Concerning Excise and Licenses Hearings.
4. Standards.
  - a. In addition to the standards set forth in §6-212(c), the Director shall also consider:
    - i. Whether the Evidence of Community Support is valid and reliable; and
    - ii. Whether the Eligible Neighborhood Organization was created for the sole purpose of supporting a Cannabis Consumption Permit.
  - b. The Director may also consider any other evidence adduced at the public hearing regarding any of the standards of denial provided in these Rules.

### ARTICLE VII – MODIFICATION OF PREMISES

1. Application Required to Change, Alter, or Modify DCA.
  - a. After obtaining a Permit, the Permittee shall make no physical change, alteration, or modification of the DCA that materially or substantially alters the DCA or the usage of the DCA from the plans originally approved, without the Department's prior written approval.
  - b. All applications to modify the DCA shall be processed in accordance with §6-217 of the Code and the Policies and Procedures Concerning Excise and Licenses Hearings.

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2. Community Support Required. The Permit Holder shall provide new evidence of community support with any application to modify the DCA.

### **ARTICLE VIII – STANDARDS OF DENIAL**

1. In addition to the grounds set forth in Chapter 32, §6-212 of the Code, and the Policies and Procedures Concerning Excise and Licenses Hearings, a Permit shall be denied if the Applicant:
  - a. Fails to establish Evidence of Community Support;
  - b. Fails to submit a complete application;
  - c. Fails to establish, by a preponderance of the evidence, any of the qualifications for the Permit at a public hearing; or
  - d. Submits an application that does not comply with all state and local laws, and any rules and regulations adopted pursuant thereto.

### **ARTICLE IX – UNLAWFUL ACTS**

1. It is unlawful to operate a DCA without first obtaining a permit as provided in Chapter 6, Article V of the Code, and these Rules.
2. It is unlawful to operate a DCA where the consumption of cannabis is visible to the public from a public place.
3. It is unlawful to cultivate, process, manufacture, store, sell, or distribute for remuneration marijuana or marijuana products within the DCA. It is unlawful to allow the cultivation, processing, manufacturing, storage, sale, or distribution for remuneration of marijuana or marijuana products within the DCA.
4. It is unlawful for any person to possess more than one ounce of marijuana or more than eight (8) grams of marijuana concentrate or more than eighty (80) ten-milligram servings of marijuana product within the DCA.
5. It is unlawful for any person to use LPG torches within the DCA.
6. It is unlawful for any person to consume or to allow the consumption of alcohol within the DCA.
7. It is unlawful for any owner, manager, or employee to consume marijuana or marijuana products while working within the DCA.

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### **ARTICLE X– STANDARDS FOR REVOCATION**

1. In addition to the grounds provided in chapter 32 of the Code, a permit may be suspended or revoked for any of the grounds for denial set forth in these Rules.
2. Procedures for investigation of permit violations and for suspension, revocation, or other licensing sanctions as a result of any such violation shall be as provided in chapter 32 of the Code and any rules and regulations promulgated by the Director.

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