

**CITY AND COUNTY OF DENVER
DEPARTMENT OF EXCISE AND LICENSES**

**RULES GOVERNING MARIJUANA
DESIGNATED CONSUMPTION AREAS**

Effective Date: July 1, 2017

Approved as to Form and Legality:

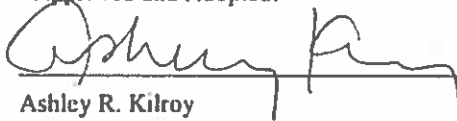


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Date: June 30, 2017

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Date: June 30, 2017

Adopted pursuant to Section 2.7.4 of the Charter of the City and County of Denver, and Article VI, Chapter 2 of the Denver Revised Municipal Code, and C.R.S. Section 12-47-313(1)(d)(III).

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DEPARTMENT OF EXCISE AND LICENSES
RULES GOVERNING MARIJUANA DESIGNATED CONSUMPTION AREAS

ARTICLE I. GENERAL PROVISIONS

Section 1.01 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.

Section 1.02 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.

Section 1.03 Definitions. For purposes of these Rules, the following definitions shall apply unless the section declares otherwise:

- (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.
- (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 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) *"Liquefied 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 or marijuana byproduct which remains on the Permitted Premises which has been left, abandoned, or otherwise not consumed.

ARTICLE II. APPLICATION REQUIREMENTS

Section 2.01 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, managers, and any Person who owns 5% or more of the entity 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 in this Article II, sSection 2.01(b)(ii), a national criminal history records check conducted by the Federal Bureau of Investigation upon submission of fingerprint records and all required documents.
 - (iv) For each Person described in this Article II, Section 2.01(b)(ii), suitable evidence of proof of lawful presence.
 - (v) A red-lined floor plan of the DCA showing the location of the DCA within the business or event.
 - (vi) A description and supporting evidence that details how 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, written permission from the Owner of the Premises approving the applicant's use of the DCA for cannabis consumption.
 - (1) *Cannabis Consumption Business Locations.* Application must include a valid zone use permit and the most recent certificate of occupancy for the underlying business in which the DCA will be located.
 - (2) *Cannabis Consumption Special Event Locations.* Application must include a valid zone use permit for temporary use of "Bazaar, Carnival, Circus or Special Event."
 - (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 responsible operations plan which shall include a detailed explanation of how employees will monitor and prevent over-intoxication, underage access to the DCA, driving under the influence of marijuana, the illegal distribution of marijuana or marijuana products within the DCA, and any other potential criminal activity on the premises.
- (xi) A documented employee training program that addresses all components of the responsible operations plan.
- (xii) A health and sanitation plan for sanitization and cleaning of cannabis consumption accessories to be rented or otherwise made available for use, if applicable.
- (xiii) 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.
- (xiv) A Community Engagement Plan as provided in D.R.M.C. § 6-210(b).
- (xv) An Odor Control Plan in the same form and substance as would be required 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.
- (xvi) Additionally, all Cannabis Consumption Special Event Permit applications must include a description and proposed dates of the event.

Section 2.02 Additional Information.

An applicant shall provide any additional information requested by the City. Unless otherwise specified, additional information must be provided to the City no later than seven (7) days after the request is made. Applications that do not contain the additional information shall be deemed incomplete and shall be rejected.

Section 2.03 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.

Section 2.04 Additional Requirements.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) An application for a Permit for a Cannabis Consumption Special Event must be submitted at least 120 days prior to the proposed date of the event. An application meeting and presentation of the event may be requested by the City.

ARTICLE III. RESTRICTIONS ON APPLICATIONS FOR NEW PERMITS

Section 3.01 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) Cannabis consumption occurring within the DCA is not visible to the public from a Place Where Children Congregate or from any Public Place.
- (e) A Cannabis Consumption Special Event Permit is not proposed to be located at an event that also has a special event liquor permit.

Section 3.02 Permit Proximity Restrictions. No Permit shall be issued within 1,000 feet of the following locations:

- (a) Any School, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the school to the nearest portion of the building in which the DCA is proposed to be located; or

- (b) Any Child Care Establishment, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the Child Care Establishment to the nearest portion of the building in which the DCA is proposed to be located.
- (c) Any 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) Any 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.

Section 3.03 Permit Location Restrictions. No Permit shall be issued for the following locations:

- (a) Any School.
- (b) Any child care establishment.
- (c) Alcohol or drug treatment facility.
- (d) Any premise licensed pursuant to Title 12, Article 46, Article 47, or Article 48.
- (e) Any location where a liquor license exists, with "location" being defined, for purposes of this paragraph, by a distinct street address assigned by the City in accordance with article IV of chapter 49 of the Code, unless alcohol is not being served at that location while the DCA is operating and the DCA permitted-premises otherwise complies with paragraph (d) above.
- (f) Any Licensed Marijuana Establishment or any location where such Licensed Marijuana Establishment exists, with "location" being defined, for purposes of this paragraph, by a distinct street address assigned by the City in accordance with article IV of chapter 49 of the Code.
- (g) Any location deemed public property and owned by the City.
- (h) Any location that is situated in a residential zone district as defined by the zoning code of the City.

ARTICLE IV. INSPECTIONS

Section 4.01 Inspections.

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.

Section 4.02 Access required.

It shall be unlawful for a Permittee, or any agent or employee thereof, to refuse access to the premises as provided in section 4.01 or to hinder any investigation, visitation, or inspection.

Section 4.03 Records.

A Permittee must maintain the information required in these Rules for a period of one (1) year and 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

Section 5.01 Security.

- (a) Age Verification & Door Security. A Permittee shall employ sufficient staff so that all entrances to the DCA are constantly monitored during 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 shall be made available to the Department upon request. The Department must be notified of any new managers of the DCA within 30 days of the new manager's hire date, and such notification must include a background check for the new manager, as provided in Article II, Section 2.01(b)(ii).

Section 5.02 Waste.

Permittees shall dispose of Waste in a secured waste receptacle that remains in possession and control of the Permittee.

Section 5.03 Odor.

A DCA shall maintain at all times an Odor Control Plan in the same form and substance as would be required by 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.

Section 5.04 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 or DCA;
 - (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.

Section 5.05 Required signage.

- (a) **Standardized Placard.** Any location operating a DCA must 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.** The DCA premises 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.

- (c) **Responsible Use.** The DCA premises must post signage that declares, at minimum, that patrons: are responsible for their own actions, will consume responsibly, will not drive impaired, and will not sell or distribute cannabis for remuneration. If applicable, the sign must contain a notice that indoor vaping and/or smoking may be occurring on the premises.

ARTICLE VI. PUBLIC HEARING REQUIREMENT

Section 6.01 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 of obtaining community support specified in Article VI of Chapter 6 of the Code, applications for a DCA shall be scheduled for a public hearing pursuant to these Rules.

Section 6.02 Public Hearing Required.

- (a) All complete 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, with notice to be provided to all registered neighborhood organizations within the designated area.
- (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 at least thirty (30) days prior to the proposed date of the event 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.

Section 6.03 Hearing procedures.

- (a) **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."
- (b) **Other Considerations.** 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 primary purpose of supporting a Cannabis Consumption Permit.
- (c) **Standards for Denial.** 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:
 - (i) The Applicant fails to establish Evidence of Community Support;

- (ii) The Applicant fails to submit a complete application;
- (iii) The Applicant fails to establish, by a preponderance of the evidence, any of the qualifications for the Permit at a public hearing; or
- (iv) The Applicant submits an application that does not comply with all state and local laws, and any rules and regulations adopted pursuant thereto.
- (v) The premises for which application has been made or for which renewal of the permit has been requested is not approved for the purpose by the Department of Environmental Health, Public Works, Community Planning and Development, or the Denver Fire Department.
- (vi) The information and evidence available to and considered by the Director fails to reasonably establish that the proposed procedures for security and admission control will prevent the distribution of marijuana to underage persons.
- (vii) The information and evidence available to and considered by the Director reasonably establishes that the character or reputation of the Applicant, principal of the Applicant, or any manager, or the past record of operation of the establishment or business is such so as not to warrant the confidence of the Director that the DCA will be lawfully operated.
- (viii) The Applicant, principal of the Applicant, or any manager has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding the application date, subject to the provisions of C.R.S. section 24-5-101, as amended, except that the Director may grant a permit if the sentence was for a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the conviction had occurred on the date of application.

ARTICLE VII. MODIFICATION OF PREMISES

Section 7.01 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.

Section 7.02 Community Support Required.

The Permit Holder may be required to provide new evidence of community support and the City may require a new public hearing upon any application to modify the DCA or to modify the usage of the DCA, including but not limited to, any modification to the hours of operation or any change to the permitted methods of cannabis consumption.

ARTICLE VIII. UNLAWFUL ACTS

- (a) 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.
- (b) It is unlawful to operate a DCA where the consumption of cannabis is visible to the public from a Place Where Children Congregate and a Public Place.
- (c) It is unlawful to cultivate, manufacture, store, sell, or distribute for remuneration marijuana or marijuana products within the DCA. It is unlawful to allow the cultivation, manufacturing, storage, sale, or distribution for remuneration of marijuana or marijuana products within the DCA.
- (d) 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 (10)-milligram servings of marijuana product within the DCA.
- (e) It is unlawful for any person to use LPG torches within the DCA.
- (f) It is unlawful for any person to consume or for any owner, manager, or employee of the DCA to allow the consumption of alcohol within the DCA while the DCA is operating and/or while marijuana consumption is occurring within the DCA.
- (g) It is unlawful for any owner, manager, or employee of the Permittee or Permit Holder to consume marijuana or marijuana products while working within the DCA.

ARTICLE IX. STANDARDS FOR REVOCATION

- (a) In addition to the grounds provided in chapter 32 of the Code, a Permit may be suspended or revoked for any violation of these Rules or for any of the standards of denial set forth in these Rules.
- (b) 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.