



CITY AND COUNTY OF DENVER
REVIEW AND COMMENT ON AN INITIATED ORDINANCE
CERTIFICATE OF COMPLIANCE

TO: Denver Elections Division
FROM: Office of the City Council
Office of the City Attorney

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

After the hearing on the date listed below, the proponents resubmitted a revised version of the text reviewed at the hearing. We have reviewed the revised text and determined that there is no need to convene another hearing in accordance with Sec. 15-3(b), D.R.M.C.

Description of proposed measure: Would permit the public consumption of marijuana in private marijuana social clubs and at special events.

Proponents: Jordan Person, Executive Director, Responsible Use Denver
3630 Monaco Parkway
Denver, CO 80207

Judd Golden, Attorney at Law, LLC
500 Mohawk Drive, Suite 209
Boulder, CO 80303

Date Received: March 29, 2016

Date of Hearing: April 4, 2016 at 9:00 a.m.

Certified By:

Office of Denver City Council

By: Janna B. Young, Executive Director

Office of Denver City Attorney

By: David Broadwell, Esq. Assistant City Attorney

Signature: Janna B. Young
Date: 4/26/16

Signature: David Broadwell
Date: 4/26/16

The Responsible Use Denver Initiative – Ballot Title

Shall the voters of the City and County of Denver adopt an ordinance to license and regulate Private Marijuana Social Clubs and Special Events - Marijuana Permitted that: allow consenting adults age twenty one or older to consume marijuana but may not directly or indirectly sell, provide, or distribute marijuana; that are not public places or open to the general public; that may not also be licensed alcohol premises or retail food establishments, such as bars or restaurants; that shall be clearly marked with conspicuous signage as private, adults only places where marijuana may be consumed; that require age verification; that require indoor marijuana consumption areas to be fully enclosed and separately ventilated, and designated with conspicuous signage; that require advertising to not be misleading, deceptive, or false, or designed to appeal to minors; and that require licensees, owners, operators or employees to be twenty one or older; that Private Marijuana Social Clubs shall be for members only, who shall satisfy and agree to comply with membership requirements and formalities established by each licensee; shall not be located within one thousand feet of any school, childcare establishment or alcohol or drug treatment facility in existence on the date of original license application; shall not be located in any residential or other specified zone districts, or where retail sales are prohibited; and shall not allow consumption between 2:00 a.m. and 7:00 a.m.; that Special Events - Marijuana Permitted shall not be conducted within one thousand feet of any school and that no entity, individual or venue shall be granted a license for more than twenty-four Events in a calendar year; that licensing shall be by the director of excise and licensing, that may be subject to a one year residency requirement, a criminal background check, restrictions on location or operation, and other relevant information; that license fees shall be as prescribed, and no bond shall be required; that this measure does not preclude the city from allowing marijuana consumption at other locations, from amending or repealing its prohibitions and restrictions on licensing and operation, or from allowing for consumption of marijuana under other business models if state law permits such licenses to be granted?

The Responsible Use Denver Initiative – Full Text

Be it enacted by the City and County of Denver:

Section 1: Amend the D.R.M.C., Title I, Chapter 38, Article V, Sec. 38-175(b)(3) by deleting the language stricken and adding the language underlined, adding a new section (f), and renumbering current section (f) as section (g):

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

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

(1) The term “openly” means occurring or existing in a manner that is unconcealed, undisguised, or obvious.

(2) The term “publicly” means:

a. Occurring or existing in a public place; or

b. Occurring or existing in any outdoor location where the consumption of marijuana is clearly observable from a public place.

(3) The term “public place” means a place to which the public or a substantial number of the public have access, 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, provided that any portion of a premises where the consumption of marijuana is permitted in a private marijuana social club or in a premises or property that is hosting a special event - marijuana permitted, as defined in section 6-208, or any other premises or property where consumption of marijuana is permitted under this Code, or the laws of the State of Colorado, shall not be considered a “public place” for purposes of this section 38-175.

(f) The consumption of marijuana occurs at a premises that is a private marijuana social club, or at a premises or on property that is hosting a special event - marijuana permitted, as defined in section 6-208, or at any other premises or property where the consumption of marijuana is expressly permitted by this Code or the laws of the State of Colorado.

~~(f)~~, (g) Any violation of this section is hereby declared to be a non-criminal violation and, upon an admission or finding or judgment of guilt or liability by default or otherwise, the violator shall be subject to the following maximum penalties:

- (1) First violation: One hundred and fifty dollars (\$150.00).
- (2) Second violation: Five hundred dollars (\$500.00).
- (3) Third and each subsequent violation: Nine hundred and ninety-nine dollars (\$999.00).

If the violator is under the age of eighteen (18) years of age at the time of the offense, any fine imposed may be supplanted by treatment as required by the court.

Section 2: Amend the D.R.M.C., Title I, Chapter 6, Article V, Sec. 6-202, by deleting the language stricken and adding the language underlined:

Sec. 6-202. Effective date; applicability.

(a) This article shall be effective October 1, 2013, and shall govern all applications submitted to the state licensing authority for licensing of any retail marijuana establishment in the city under the Colorado Retail Marijuana Code on and after that date.

(b) Except as otherwise specifically provided herein, this article shall not affect or apply to any business licensed under the Colorado Medical Marijuana Code, article 43.3 of title 12, C.R.S., ~~and~~ the Denver Medical Marijuana Code, article XII of chapter 24, D.R.M.C. (Ord. No. 448-13, § 2, 9-16-13), a private marijuana social club, or a special event - marijuana permitted, as provided in section 6-208, or at any other licensed business where the consumption of marijuana is permitted by this Code, or the laws of the State of Colorado.

Section 3: Amend the D.R.M.C., Title I, Chapter 6, Article V, Sec. 6-206(c), by deleting the language stricken and adding the language underlined:

Sec. 6-206. Unlawful acts.

(c) It shall be unlawful for any person to engage in any form of business or commerce involving the cultivation, processing, manufacturing, storage, sale, distribution or consumption of marijuana other than those forms of businesses and commerce that are expressly contemplated by section 16 of Article XVIII of the Colorado Constitution, the Colorado Retail Marijuana Code, ~~or the Colorado Medical Marijuana Code~~, section 6-208, this Code, or the laws of the State of Colorado.

Section 4: Amend the D.R.M.C., Title I, Chapter 6, Article V, by adding a new section 6-208:

Sec. 6-208. Private Marijuana Social Clubs and Special Events - Marijuana Permitted.

(a) Private Marijuana Social Clubs

(1) A private marijuana social club is a licensed business establishment that permits the consumption of marijuana by consenting adult members twenty one (21) years of age or older.

(2) A private marijuana social club shall be subject to the following limitations and restrictions on licensing and operation:

(a) It shall not directly or indirectly sell, provide, or distribute marijuana.

(b) It may not also be a licensed alcohol premises or licensed retail food establishment, such as a bar or restaurant.

(c) Individuals under the age of twenty one (21) shall not be allowed entry, and proof of age shall be verified in a manner similar to that which is required for the purchase and sale of alcohol.

(d) It shall not be open to the general public, and shall be limited to members, who shall satisfy and agree to comply with the membership requirements and formalities established by each licensee.

(e) Indoor areas where consumption of marijuana is permitted shall be fully enclosed and separately ventilated.

(f) Individuals under the age of twenty one (21) may not be licensees, owners, operators or employees.

(g) The premises shall be clearly marked with conspicuous signage which identifies it as a private marijuana social club where marijuana may be consumed, that access is limited to adult members 21 (twenty one) years of age or older, and the areas where consumption of marijuana is permitted shall be clearly designated with conspicuous signage; otherwise, it shall comply with generally applicable city ordinances regulating signs and advertising, except that it shall not 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.

(h) The premises shall not be located within one thousand (1,000) feet of any school, childcare establishment or alcohol or drug treatment facility, as defined in sections 6-201(1),(2), and (6), which was in existence on the date of original license application, with the distance computed by direct measurement in a straight line from the nearest property line of the land used for the school, childcare establishment or alcohol or drug treatment facility to the nearest entrance to the building in which the private marijuana social club is located.

(i) It shall not allow the consumption of marijuana on the premises between the hours of 2:00 a.m. and 7:00 a.m.

(j) It shall not be located in any residential zone district, in any MS-2, MS-2x, MX-2, MX-2A or MX-2x zone district as defined by the zoning code of the city, or in any location where retail sales are prohibited by the zoning code or by any ordinance governing a planned unit development.

(3) Licensing shall be by the director of excise and licensing as provided in title I, chapter 32, article I, upon a license application form to be provided by the director. The form shall be prepared within twenty eight (28) days after the passage of this ordinance. In addition to the items contained in section 32-2, other relevant information the director may consider is:

(a) Any restrictions on location or operation provided in this section 6-208(a).

(b) Proof of legal possession of the proposed licensed premises.

(c) Floor plans of the proposed licensed premises, with the areas where consumption of marijuana is permitted clearly marked.

(d) The results of a criminal background check, considering the factors in section 24-5-101(2), C.R.S.

(e) Proof of Colorado residency for one (1) year or more prior to the date of filing an application.

(4) Fees shall be as prescribed in section 32-92(2), and no bond shall be required.

(5) It shall be unlawful for any person to operate a private marijuana social club without a license as required by this section.

(b) Special Events - Marijuana Permitted

(1) Special events - marijuana permitted are licensed private events for individuals twenty one (21) years of age or older that allow the consumption of marijuana.

(2) Special events - marijuana permitted shall be subject to the following limitations and restrictions on licensing and operation:

(a) It shall not directly or indirectly sell, provide, or distribute marijuana.

(b) It may not be at a premises or property that is a licensed alcohol premises or licensed retail food establishment, such as a bar or restaurant.

(c) Individuals under the age of twenty one (21) shall not be allowed entry, and proof of age shall be verified in a manner similar to that which is required for the purchase and sale of alcohol.

(d) Indoor areas where consumption of marijuana is permitted shall be fully enclosed and separately ventilated.

(e) Individuals under the age of twenty one (21) may not be licensees, owners, or employees.

(f) The licensed premises or property shall be marked with conspicuous signage as a special event - marijuana permitted clearly stating that access is limited to adults twenty one (21) years of age or older, and that the areas where consumption of marijuana is permitted shall be clearly designated with conspicuous signage; otherwise, the event shall comply with generally applicable city ordinances regulating signs and advertising for special events, except that the event shall not 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.

(g) The licensed premises or property shall not be located within one thousand (1,000) feet of any school, as defined in section 6-201(6), which was in existence on the date of the original license application, 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 entrance of the licensed property or the building in which the event is held.

(3) Licensing shall be by the director of excise and licensing as provided in title I, chapter 32, article I, upon a license application form to be provided by the director. The form shall be prepared within twenty eight (28) days after the passage of this ordinance. Fees shall be as prescribed in section 32-92(3), and no bond shall be required. No entity, individual or venue shall be granted a license for more than twenty-four (24) events in a calendar year. It shall be unlawful for any person to conduct a special event-marijuana permitted without a license as required by this section. In addition to the items contained in section 32-2, other relevant information the director may consider is:

(a) Any restrictions on location or operation provided in this section 6-208(b).

(b) Proof of the legal right to use the proposed licensed premises.

(c) A description of the premises or property where consumption of marijuana will be permitted.

(d) The results of a criminal background check, considering the factors in section 24-5-101(2), C.R.S.

(e) Proof of Colorado residency for one (1) year or more prior to the date of filing an application.

(c) Nothing in this section shall preclude the city from permitting or licensing the consumption of marijuana at other venues, establishments, or events, from amending or repealing the prohibitions and restrictions in this section on licensing and operation, or from adopting other ordinances that allow the consumption of marijuana under other business models if the State of Colorado permits such licenses to be granted.

(d) This section shall be construed as a whole and receive a liberal construction to carry out the intents and purposes herein set forth, and the sections or portions of these section shall be so construed as to harmonize with one another. In the event any

section or part of this section shall be declared unconstitutional or invalid, the validity of the remaining sections and parts of sections shall not be affected thereby.

Section 5: Amend the D.R.M.C., Title I, Chapter 32, Article II, sec. 32-92, by adding a new section (2), deleting the language stricken, and adding the language underlined:

Sec. 32-92. Marijuana licensing.

(1) Application and license fees for retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturers, and retail marijuana testing facilities are as follows:

- ~~(1)~~ (a) Annual operating fee, per year: \$5,000.00 for all classes of licenses.
- ~~(2)~~ (b) Criminal background check fee per person checked: Actual costs.
- ~~(3)~~ (c) Transfer of ownership: \$100.00, plus cost of background check.
- ~~(4)~~ (d) Transfer of location: \$750.00
- ~~(5)~~ (e) Modification of premises: \$150.00

(2) Application and license fees for private marijuana social clubs are as follows:

- (a) Application fee: \$25.00
- (b) Annual operating fee, per year: \$100.00
- (c) Criminal background check fee, if applicable, per person checked: Actual costs.
- (d) Transfer of ownership: \$20.00, plus cost of background check, if applicable: Actual costs.
- (e) Transfer of location: \$20.00

(3) Special events - marijuana permitted shall be subject to the following fees:

- (a) Application fee: \$25.00
- (b) License fee, per year: \$75.00
- (c) License, per day: \$10.00
- (d) Criminal background check fee, if applicable, per person checked: Actual costs.

Section 6: Amend the D.R.M.C., Title II, Chapter 32, Article I, Sec. 32-22(8), by deleting the language stricken and adding the language underlined:

Sec. 32-22. Revocation.

(8) The licensee, or any of the agents, servants or employees of the licensee, have violated any ordinance of the city or any state or federal law on the premises or have permitted such a violation on the premises by any other person-, provided, this paragraph does not apply to the possession, consumption, or use of marijuana at a private marijuana social club, or at a special event-marijuana permitted, as provided in sections 38-175, 6-206, and 6-208, or at any other licensed business where the consumption of marijuana is permitted by this Code, or the laws of the State of Colorado.