



# ADVISORY BULLETIN

September 4, 2020

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## Designated Consumption Establishments

The intent of this bulletin is to provide the public and the marijuana industry with information regarding Designated Consumption Establishments.

### Designated Consumption Establishment License Required

Pursuant to Rule 21 (3) of the Marijuana Licenses Rule Set (R 420.21(3)), a person that allows consumption of marijuana products on the premises of a nonresidential location and charges a fee for entry, sells goods or services while individuals are consuming on the premises, or requires membership for entry shall acquire a Designated Consumption Establishment or Temporary Marijuana Event license.

### Eligibility for a Designated Consumption Establishment License

A person must apply for and be granted prequalification status to be eligible for a Designated Consumption Establishment license. An applicant does not have to possess a license issued under the Medical Marijuana Facilities Licensing Act to be eligible for a Designated Consumption Establishment license.

### Licensing Process

The steps for obtaining a Designated Consumption Establishment license – which may be done separately or all at once – are as follows:

- Obtain Prequalification status - apply using the Step 1 Prequalification application
- Obtain a Designated Consumption Establishment license - apply using the Step 2 Designated Consumption Establishment license application

Questions can be sent to the Marijuana Regulatory Agency (MRA) via email at [MRA-Adult-Use-Marijuana@michigan.gov](mailto:MRA-Adult-Use-Marijuana@michigan.gov).

### Operations of Licensed Designated Consumption Establishments Under COVID-19 Executive Orders

On May 18, 2020, Governor Whitmer issued [Executive Directive 2020-6](#) that directs each state agency to enforce workplace health and safety standards and take enforcement actions to ensure compliance. On July 17, 2020, Governor Whitmer issued [Executive Order 2020-153](#) setting forth additional requirements regarding masks.. On August 4, 2020, Governor Whitmer signed [Executive Directive No. 2020-8](#) that directs state departments and agencies to prioritize enforcement of all COVID-19 Executive Orders. On September 3, 2020, the Governor signed [Executive Order 2020-175](#) that established safeguards to protect Michigan's workers from COVID-19, and [Executive Order 2020-176](#) that amended the [Michigan Safe Start Plan](#).



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In accordance with Governor Whitmer's Executive Orders and Executive Directive, the Marijuana Regulatory Agency (MRA) is taking proactive steps to ensure marijuana businesses implement infection-control practices to protect their employees, medical marijuana patients, caregivers, and adult-use customers.

The following is effective immediately and is a continuation of previous COVID-19 related authorizations and restrictions the MRA has issued and will remain in effect until the Executive Orders and ED 2020-6 are terminated.

## **Enforcement**

The MRA will prioritize enforcement of the COVID-19 Executive Orders for health and safety purposes. The MRA also, will oversee compliance with the mask/face covering requirements and workplace health-and-safety standards established in the Executive Orders cited in this bulletin. Noncompliance with the COVID-19 Executive Orders is presumptive evidence of a public health hazard or imminent and substantial hazard to the public health and may subject the marijuana licensee to disciplinary actions/proceedings, including summary suspension.

This bulletin is intended to provide guidance and should not be interpreted as law as other issues may apply. Licensees are to familiarize themselves with all applicable emergency orders.

## **All marijuana licensees are required to, at a minimum:**

(a) Develop a COVID-19 preparedness and response plan, consistent with recommendations in Guidance on Preparing Workplaces for COVID-19, developed by the Occupational Health and Safety Administration ("OSHA") and available [here](#). Within two weeks of resuming in-person activities a business's or operation's plan must be made readily available to employees, labor unions, and customers, whether via website, internal network, or by hard copy.

(b) Designate one or more worksite supervisors to implement, monitor, and report on the COVID-19 control strategies developed under subsection (a). The supervisor must remain on-site at all times when employees are present on site. An on-site employee may be designated to perform the supervisory role.

(c) Provide COVID-19 training to employees that covers, at a minimum:

- Workplace infection-control practices.
- The proper use of personal protective equipment.
- Steps the employee must take to notify the business or operation of any symptoms of COVID-19 or a suspected or confirmed diagnosis of COVID-19.
- How to report unsafe working conditions.



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- (d) Provide any communication and training on COVID-19 infection control practices in the primary languages common in the employee population.
- (e) Place posters in the languages common in the employee population that encourage staying home when sick, cough and sneeze etiquette, and proper hand hygiene practices.
- (f) Conduct a daily entry self-screening protocol for all employees or contractors entering the facility, including, at minimum, a questionnaire covering symptoms and suspected or confirmed exposure to people with possible COVID-19.
- (g) Keep everyone on the worksite premises at least six feet from one another to the maximum extent possible, including the use of ground markings, signs, and physical barriers, as appropriate to the worksite.
- (h) Provide non-medical grade face coverings to their employees, with supplies of N95 masks and surgical masks reserved, for now, for health care professionals, first responders (e.g. police officers, fire fighters, paramedics), and other critical workers.
- (i) Require face coverings to be worn when employees cannot consistently maintain six feet of separation from other individuals in the workplace and consider face shields when employees cannot consistently maintain three feet of separation from other individuals in the workplace.
- (j) Require face coverings in shared spaces, including during in-person meetings and in restrooms and hallways.
- (k) Increase facility cleaning and disinfection to limit exposure to COVID-19, especially on high-touch surfaces (e.g., door handles), paying special attention to parts, products, and shared equipment (e.g., tools, machinery, vehicles).
- (l) Adopt protocols to clean and disinfect the facility in the event of a positive COVID-19 case in the workplace.
- (m) Make cleaning supplies available to employees upon entry and at the worksite and provide time for employees to wash hands frequently or to use hand sanitizer.
- (n) When an employee is identified with a confirmed case of COVID-19: Immediately notify, the local public health department, and within 24 hours, notify any co-workers, contractors, or suppliers who may have come into contact with the person with a confirmed case of COVID-19.
- (o) An employer will allow employees with a confirmed or suspected case of COVID-19 to return to the workplace only after they are no longer infectious according to the latest guidelines from the Centers for Disease Control and Prevention (CDC) and they are released from any quarantine or isolation by the local public health department.



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(p) Follow Executive Order 2020-36, and any executive orders that follows it, that prohibits discharging, disciplining, or otherwise retaliating against employees who stay home or who leave work when they are at particular risk of infecting others with COVID-19.

(q) Establish a response plan for dealing with a confirmed infection in the workplace, including protocols for sending employees home and for temporary closures of all or part of the worksite to allow for deep cleaning.

(r) Restrict business-related travel for employees to essential travel only.

(s) Encourage employees to use personal protective equipment and hand sanitizer on public transportation.

(t) Promote remote work to the fullest extent possible.

(u) Adopt any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.

Employers must maintain a record of the requirements set forth in Sections (c), (f), and (n) and provide the records to the MRA upon request.

**Note:** Marijuana businesses should follow their standard operating procedures for cleaning and sanitizing surfaces, including product work surfaces, utensils and equipment. There is a list of EPA-registered “disinfectant” products for COVID-19 on the Disinfectants for Use Against SARS-CoV-2 [list](#) that have qualified under EPA’s emerging viral pathogen program for use against SARS-CoV-2, the coronavirus that causes COVID-19. Consider increasing the frequency of surface cleaning. More preventative measures from the CDC can be found [here](#).

## **Additional Requirements**

The following rules about face coverings must be followed:

1) Any individual who leaves their home or place of residence must wear a face covering over their nose and mouth:

(a) When in any indoor public space;

(b) When outdoors and unable to consistently maintain a distance of six feet or more from individuals who are not members of their household; and



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(c) When waiting for or riding on public transportation, while in a taxi or ride-sharing vehicle, or when using a private car service as a means of hired transportation.

2) Although a face covering is strongly encouraged even for individuals not required to wear one, the requirement to wear a face covering does not apply to individuals who:

(a) Are younger than five years old (and, per guidance from the Centers for Disease Control and Prevention (“CDC”), children under the age of two should not wear a mask);

(b) Cannot medically tolerate a face covering;

(c) Are eating or drinking while seated at a food service establishment;

(d) Are exercising when wearing a face covering would interfere with the activity;

(e) Are receiving a service for which temporary removal of the face covering is necessary;

(f) Are entering a business or are receiving a service and are asked to temporarily remove a face covering for identification purposes;

(g) Are communicating with someone who is deaf, deafblind, or hard of hearing and where the ability to see the mouth is essential to communication;

(h) Are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a mask would seriously interfere in the performance of their public safety responsibilities;

(i) Are at a polling place for purposes of voting in an election;

(j) Are officiating at a religious service; or

(k) Are giving a speech for broadcast or to an audience, provided that the audience is at least six feet away from the speaker.

3) To protect workers, shoppers, and the community, no business, government office, or operation that is open to the public may provide service to a customer or allow a customer to enter its premises, unless the customer is wearing a face covering as required by this order.



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(a) Businesses that are open to the public must post signs at entrance(s) instructing customers of their legal obligation to wear a face covering while inside. The Michigan Department of Labor and Economic Opportunity may, in its discretion, require such businesses to post signs developed and made available by the Department, or conforming to requirements established by the Department.

(b) A department or agency that learns that a licensee is in violation of this section will consider whether the public health, safety or welfare requires summary, temporary suspension of the business's license to operate (including but not limited to a liquor license) under section 92 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.292(2).

(c) A business may not assume that someone who enters the business without a face covering falls in one of the exceptions specified in section 2 of this order, including the exception for individuals who cannot medically tolerate a face covering. A business may, however, accept a customer's verbal representation that they are not wearing a face covering because they fall within a specified exception.

The protections against discrimination in the Elliott-Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 et seq. and any other protections against discrimination in Michigan law, apply in full force to individuals who wear a face covering under the executive orders.

Nothing in this bulletin shall be taken to abridge protections guaranteed by the state or federal constitution under these emergency circumstances.

**In addition to the requirements listed above, Designated Consumption Establishments must:**

- Limit capacity to 50% of normal seating.
- Require six feet of separation between parties or groups at different tables.
- Require customers to wear a face covering except when seated at their table (unless the customer is unable medically to tolerate a face covering).
- Require customers to remain seated at their tables, except to enter or exit the premises, to order, or to use the restroom.
- Prohibit access to common areas in which people can congregate or otherwise mingle.



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- Create communications material for customers (e.g., signs, pamphlets) to inform them of changes to Designated Consumption Establishment practices and to explain the precautions that are being taken to prevent infection. At a minimum, material(s) should substantially conform to the information provided [here](#).
- Close waiting areas and ask customers to wait in cars whenever possible, or else outside for a notification when their table is ready.
- Designated Consumption Establishments should take measures to encourage social distancing among those customers waiting for tables who are not waiting in their cars.
- Provide physical guides, such as tape on floors or sidewalks and signage on walls to ensure that customers remain at least six feet apart in any lines.
- Post signs at entrances informing customers not to enter if they are or have recently been sick. At a minimum, signs should substantially conform to the information provided [here](#).
- Post signs instructing customers to wear face coverings until they are seated at their table. At a minimum, signs should substantially conform to the information provided [here](#).
- Limit shared items for customers and clean high-contact areas after each customer.
- Train employees on how to manage symptomatic customers upon entry or while in the Designated Consumption Establishment.
- Notify employees if the employer learns that an individual (including an employee, customer, or supplier) with a confirmed case of COVID-19 has visited the Designated Consumption Establishment.
- Close the Designated Consumption Establishment immediately if an employee shows symptoms of COVID-19, defined as either the new onset of cough or new onset of chest tightness or two of the following: fever (measured or subjective), chills, rigors, myalgia, headache, sore throat, or olfactory/taste disorder(s), and perform a deep clean, consistent with guidance from the FDA and the CDC. Such cleaning may occur overnight.
- To the maximum extent possible, limit the number of employees in shared spaces to maintain at least six-foot distance between employees.

A complete copy of the Rules can be found [here](#). More information on the MRA can be found at the agency website: [www.michigan.gov/MRA](http://www.michigan.gov/MRA). Executive Orders issued by Governor Whitmer can be found [here](#).