Subject: Considering introduction of an Ordinance amending Concord Municipal Code Chapter 5.80 (Cannabis) to increase the number of city cannabis microbusiness licenses by two and reserving those two additional licenses for microbusinesses with a storefront retailer component, by reading of the title only and waiving further reading.

CEQA: Not a “project” under CEQA Guidelines Sections 15060(c), 15378 and Public Resources Code 21065; in the alternative, if deemed a “project,” exempt pursuant to CEQA Guidelines Section 15061(b)(3) and Business and Professions Code Section 26055(h).

Report in Brief
Pursuant to state law and City Ordinance, a cannabis microbusiness is a vertically integrated business that must include three or four of the following cannabis activities: retail (storefront or non-storefront), distribution, manufacturing, or cultivation.

On May 26, 2020, the City Council adopted amendments to Title 18 (Development Code), Chapter 5.80 (Cannabis) of the Concord Municipal Code (CMC) regarding the permitting, licensing, and regulation of commercial cannabis businesses within the City. These cannabis regulation amendments allowed the following:

- manufacturing (up to 5 licenses);
On July 28, 2020, the City Council approved the merit-based competitive selection process, criteria, and scoring for reviewing and approving applications for commercial cannabis licenses for retailers (both storefront and non-storefront) and microbusinesses with a storefront retail component. However, it is possible that no microbusiness licenses would be available for the competitive selection process if four licenses have been already issued to microbusinesses that do not have a storefront retail component through the non-competitive or "first-come/first served" process¹.

At the July 28, 2020 meeting, the Council directed staff to return in September 2020 with a Cannabis Ordinance amendment to allow up to two additional microbusiness licenses, specifically allocated for those microbusinesses with a retail storefront component as one of the microbusiness activities.

The Council is being asked to consider this amendment through adoption of the proposed Ordinance (Attachment 1).

**Recommended Action**

Introduce the attached Ordinance (Attachment 1) by reading of the title only and waiving further reading.

**Background**

On April 28, 2020, the City Council introduced an Ordinance by a vote of 3:2 (Ayes: McGallian, Aliano, Birsan; Noes: Hoffmeister, Obringer), amending Concord Municipal Code Chapter 5.80 (Cannabis) and Development Code (Title 18) to:

- Allow adult-use City Cannabis Licenses for manufacturers and Type 13 distributors;

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¹ Once a City Cannabis License is issued to an applicant through the first come/first served process, the commercial cannabis business would still be required to obtain the appropriate permits through the Planning and Building Divisions, a corresponding state cannabis license and a City business license before commencing any cannabis operations.
• Increase the maximum number of City Cannabis Licenses for manufacturers (up to five), affiliated Type 13 distributors, and unlimited amount of testing laboratories; and,

• Allow City Cannabis Licenses for retail (storefront (up to three) and non-storefront (up to three), microbusinesses (up to four), and Type 11 distributors (up to two).

The City Council action via that Ordinance also included:

• Decreasing the required buffer distance between cannabis businesses and sensitive uses (public or private schools, child day care facilities, youth community center) from 600 feet to 250 feet; and

• Modifications to allow additional microbusiness licenses (four total; up to two with a non-storefront retailer component and up to two with a storefront retailer component). Microbusinesses with a storefront retail component would be selected through a competitive selection process.

The Ordinance was adopted on May 26, 2020, which included limitations on the number of certain City Cannabis License types, as follows:

• Five manufacturer licenses

• Four microbusiness licenses. Of these four microbusiness licenses, a maximum of two microbusinesses may include a storefront retailer component, and a maximum of two microbusinesses may include a non-storefront retailer component

• Three non-storefront retailer licenses

• Three storefront retailer licenses

• Two distributor Type 11 licenses

• Distributor transport only Type 13 licenses shall only be issued in conjunction with a corresponding City Cannabis License issued by the Chief of Police (such as manufacturing).

The adopted ordinance also established the following limited number of cannabis licenses that can only be applied for after being selected through a competitive selection process:

• Three storefront retailer licenses;

• Three non-storefront retailer licenses; and,

• Two microbusinesses with a storefront retail component.
All other licenses can be applied for and issued through a first-come, first-served process.

On July 28, 2020, the City Council approved the procedure, criteria, and scoring for a merit-based competitive process to review and select eligible applicants to apply for available City Cannabis Licenses for cannabis storefront retailers, non-storefront retailers, and microbusinesses with a storefront retailer component.

At that time, the Council also directed staff to place on a September 2020 agenda an amendment of the City’s Cannabis Ordinance to add up to two additional microbusiness licenses that are to be specifically reserved for microbusinesses with a storefront retailer component. This direction was provided due to Council’s concern that all available microbusiness licenses could be issued through the first-come/first-served process; therefore, not allowing for any microbusinesses with a storefront retailer component for the competitive selection process as envisioned by the Council.

**Analysis**

**Microbusiness Summary and Existing Regulations**

A cannabis microbusiness is a vertically integrated cannabis business which is licensed to engage in three or four separate cannabis activities. Each of these activities would typically require their own cannabis license, if not integrated as part of cannabis microbusiness. The City’s Municipal Code (Chapter 5.80) – which is consistent with state law and regulation – defines a cannabis microbusiness as:

> A cannabis business allowed to engage in the cultivation of cannabis on an area less than 10,000 square feet, and to act as a licensed distributor, Level 1 manufacturer (Type 6 license), and/or retailer, if duly licensed by the Bureau of Cannabis Control, as defined by California Business and Professions Code Section 26070(a)(3)(A), or any successor statute thereto. A microbusiness shall engage in at least three (3) of these four (4) commercial cannabis activities: retail [storefront or non-storefront], distribution, manufacturing, or cultivation.

As defined, a microbusiness can be constituted in a number of forms. Because a microbusiness can include any of the three or four cannabis activities (listed below), there are numerous variations to the types of microbusiness that can be applied for by applicants, and licensed by the City, those which include the activities of:

- Retail storefront
- Retail non-storefront
- Distribution
- Manufacturing
- Cultivation
The Municipal Code also regulates microbusinesses by limiting the maximum number of licenses to four total. Of those four total microbusiness licenses, there are further restrictions on the number of microbusinesses allowable with a retail component. A maximum of two microbusinesses may include a storefront retailer component, and a maximum of two microbusinesses may include a non-storefront retailer component (such as delivery).

All microbusinesses with a storefront retailer component can only be applied for after being selected by the City Council through the merit-based competitive selection process. Due to the numerous variations of microbusinesses, there could be a situation where all of the available microbusiness licenses -- not including a microbusiness with a storefront retailer component -- could be applied for through the first-come/first-served process, before the competitive selection process has commenced.

Amendment Context
The City has opened the first-come/first-served process for cannabis businesses to apply for a City Cannabis License, including up to four microbusinesses that do not incorporate storefront retail. Pursuant to the Cannabis Ordinance, up to two of the first-come first-served licenses can include non-storefront retail (delivery only retail) and two could include activities other than retail (cultivation, manufacturing, and distribution).

To date, three microbusiness applications have been received as part of the first-come/first-served process and it is possible that new applications will be submitted at any time prior to selection of microbusinesses through the competitive selection process. Given there could be four microbusiness license applications which could be approved during this process, a scenario could arise where all four available cannabis microbusiness licenses could be issued by the City. This could occur if two microbusiness are approved with a non-storefront retail component (the maximum number allowable) and one or two microbusiness are approved with no retail component (distribution, manufacturing, and cultivation). With all four licenses issued, no licenses would be available for microbusiness that include storefront retail through the competitive selection process.

Recommended Change
The Council requested staff bring an amendment of the City’s Cannabis Ordinance to provide for two additional microbusiness licenses. These licenses would be reserved for microbusinesses with a storefront retailer component subject to a competitive selection process. This would amend the Code to increase the maximum number of microbusiness licenses that can be issued by the City to six.

In staff’s analysis, amending the Cannabis Ordinance to allow additional microbusiness licenses is the only option available to ensure that two microbusiness with storefront retail can be applied for through the competitive selection process. As a result, staff recommends that Council adopt the Ordinance (Attachment 1) to include two
microbusiness licenses reserved for microbusinesses with a storefront retail component. Exhibit A to the Ordinance includes a text amendment to the Code to specifically reserve two microbusiness licenses for those with a retail storefront component, as one of the three or four cannabis activities that make up the business. Pursuant to the existing code, these new microbusiness licenses could only be applied for after being selected for through the competitive selection process anticipated to begin in early October, 2020. Other minor edits are included in Exhibit A for clarification purposes.

This amendment would increase the number of microbusiness licenses allowed in Concord from four to six, by reserving two microbusiness licenses, with a storefront retailer component, for the competitive selection process. Although it would increase the number of microbusiness licenses, it would not increase the number of microbusinesses with a retailer component (storefront or non-storefront) above the four currently allowed in by the existing code and regulations. The amendment would simply allow up to two microbusiness licensees of three distinct types of business that include:

- Microbusiness with storefront retail (3 or 4 of the following activities: distribution, manufacturing, cultivation, storefront retail)
- Microbusiness with non-storefront retail (3 or 4 of the following activities: distribution, manufacturing, cultivation, non-storefront retail)
- Microbusiness with no retail (distribution, manufacturing, and indoor cultivation)

Financial Impact
The requirement for community benefit/development agreements in relation to new retail cannabis uses approved through the merit-based competitive selection process is expected to result in additional revenue for the City.

The total projected annual revenue from the community benefit and sales tax could be between $1,020,000 and $1,382,000 after one year of full implementation for the maximum allowable number of licenses available through the competitive selection process: three non-storefront retailers, three storefront retailers, and two microbusinesses with a storefront retail component (eight businesses in total).

Because cannabis licenses issued through the first-come/first-served process would not enter into community benefit agreements with the City, the estimated annual revenue would be reduced if the Ordinance is not amended to ensure that up to two licenses are available for microbusinesses with a storefront retail component.

Environmental Determination
Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the proposed amendment to the Municipal Code does not constitute a “project” within the meaning of Public Resources Code Section 21065 and CEQA Guidelines Sections 15060(c)(2), or 15378 because there is no potential that the activity will result in a direct or reasonably
foreseeable indirect or direct physical change in the environment. Although the subject ordinance is designed to increase the number of available City Cannabis Licenses, the proposed amendment to increase the number of microbusinesses with a retail component would not alter the underlying land uses (such as manufacturing, light industrial or retail uses) that are currently permitted in the subject zoning districts without a cannabis use component. Subsequent applications for a commercial cannabis land use would be subject to individual review under CEQA.

Moreover, even if the proposed amendment did comprise a project for CEQA analysis, it falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Here, the proposed amendment would allow for only two additional commercial cannabis businesses, which would not cause any significant impacts apart from underlying land uses that are already permitted in the subject zoning districts. In addition, Business and Professions Code Section 26055(h) provides that CEQA does not apply to the adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits, licenses or other authorizations to engage in commercial cannabis activity as long as each subsequent discretionary approval involves applicable CEQA review. Accordingly, no further environmental review is required.

Public Contact
All appropriate public notices of this agenda item have been posted. An advertisement was posted in the East Bay Times in accordance with the public notification requirements. Staff also e-notified interested parties, and have posted the notification on the City’s cannabis webpage: http://www.cityofconcord.org/cannabis.

Attachments
1. Draft Ordinance with Text Amendments attached thereto as Exhibit A:
   A. Exhibit A: Draft Municipal Code Amendments (5.80)
ORDINANCE NO. 20-XX

AN ORDINANCE AMENDING CONCORD MUNICIPAL CODE
CHAPTER 5.80 (CANNABIS) TO INCREASE THE NUMBER OF CITY
CANNABIS MICROBUSINESS LICENSES BY TWO AND RESERVING
THOSE TWO ADDITIONAL LICENSES FOR MICROBUSINESSES
WITH A STOREFRONT RETAILER COMPONENT

WHEREAS, on October 9, 2015, Governor Brown approved a series of bills commonly referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), effective January 1, 2016, which created a state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis; and

WHEREAS, on November 8, 2016, the Control, Regulate, & Tax Adult Use of Marijuana Act (AUMA) was approved by California voters through the passing of Proposition 64. Effective November 9, 2016, the AUMA legalizes for persons 21 years or older to: (1) smoke or ingest marijuana or marijuana products, (2) possess, process, transport, purchase, obtain, give away without compensation to persons 21 years or older 28.5 grams of marijuana or 8 grams of concentrated marijuana, and (3) possess, plant, cultivate, harvest, dry, or process up to six living marijuana plants per legal dwelling unit for personal use. Additionally, the AUMA created a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products, of which temporary regulations established by the State became effective as of January 2, 2018; and

WHEREAS, on January 10, 2017, the City Council adopted Ordinance 16-9, which (among other things) prohibited outdoor cultivation of medical and nonmedical marijuana; and

WHEREAS, in June 2017, the California Legislature passed Senate Bill 94, which effectively repealed MCRSA and incorporated certain provisions of MCRSA in the licensing provisions of the AUMA, and replaced it with the Medical and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, on June 27, 2017, the City Council directed staff to develop a ban on all marijuana uses and activities, except for uses that are required by the AUMA, to allow the Council and the community time to explore its options and develop any desired new regulations after the State
commences the licensing of marijuana uses as of January 2, 2018; and also directed staff to work with a consultant to conduct a statistically valid survey; and

WHEREAS, on July 25, 2017, the City Council adopted Ordinance No. 17-10, which amended the Concord Municipal Code to allow delivery of medical marijuana from licensed dispensaries to qualified patients; and

WHEREAS, on November 14, 2017, the City Council adopted Ordinance No. 17-13, amending the Municipal Code and Development Code to ban all cannabis uses, except for personal indoor cultivation and delivery of medicinal cannabis from licensed dispensaries located outside of Concord to qualified patients; and

WHEREAS, on June 12, 2018, the City Council adopted Ordinance No. 18-3, which amended the Municipal Code and Development Code to establish a Commercial Cannabis Overlay District, associated development standards, and a licensing framework for medicinal-only cannabis manufacturing and distribution, and adult-use and medicinal testing laboratories; and

WHEREAS, on April 2, 2019, the City Council and Planning Commission conducted a Joint Study Session and directed staff to pursue revisions to the existing cannabis regulations to potentially allow additional commercial cannabis uses including adult-use and medicinal non-storefront retail; and consideration of allowing adult-use and medicinal storefront retail and microbusinesses; and

WHEREAS, on August 13, 2019, the City Council provided direction to staff on permitting adult-use, in addition to medicinal, cannabis manufacturing and distribution licenses; and provided direction on increasing the amount of City Cannabis Licenses available for cannabis manufacturing, distribution, and testing laboratories; and

WHEREAS, on November 5, 2019, the City Council considered introduction of an Ordinance amending Concord Municipal Code Chapter 5.80 (Cannabis) to add adult-use City Cannabis Licenses for manufacturing and distribution; to increase the maximum number of City Cannabis Licenses for manufacturing, distribution, and testing laboratories; to allow City Cannabis Licenses for medicinal and adult-use retail (storefront and non-storefront); and allow City Cannabis Licenses for microbusinesses. At the meeting, the City Council provided direction to staff regarding the allowable
number of each cannabis license type, and directed staff to bring the Development Code amendments
required for implementing corresponding changes to the Concord Development Code to the Planning
Commission for consideration and recommendation to the City Council; and

WHEREAS, on February 5, 2020, the Planning Commission held a duly noticed public
hearing and adopted Resolution No. 20-01PC (with a 4:0 vote, Weinmann absent), recommending
City Council amend the Development Code with text amendments to the land use tables (18.30-
18.60), Commercial Cannabis Overlay District (18.110), Signs (18.180), Development Agreements
(18.460), and General Terms (18.20), relating to commercial cannabis regulation; and

WHEREAS, on May 26, 2020, the City Council Adopted Ordinance No. 20-4, Amending
Concord Municipal Code Chapter 5.80 (Cannabis) and Development Code (Title 18) to Allow Adult-
Use City Cannabis Licenses for Manufacturers and Type 13 Distributors; Increase the Maximum
Number of City Cannabis Licenses for Manufacturers, Type 13 Distributors, and Testing
Laboratories, and Allow City Cannabis Licenses for Retail (Storefront and Non-Storefront),
Microbusinesses, and Type 11 Distributors; and

WHEREAS, on July 28 2020, after considering a proposed competitive selection process for
licenses issued for storefront retail cannabis uses, the City Council directed staff to place on a
September 2020 agenda for Council consideration an amendment of the City’s Cannabis Ordinance to
add up to two additional microbusiness licenses to be reserved for microbusinesses with a storefront
retail component and subject to a competitive selection process; and

WHEREAS, the adoption of this Ordinance and attached text amendment (collectively
referred to as “Amendment,” attached hereto as Exhibit A) to the Concord Municipal Code is
necessary to increase the number of city cannabis microbusiness licenses by two and reserving those
additional licenses for microbusiness with a storefront retail component, subject to a competitive
selection process; and

WHEREAS, the City Council, after giving all public notices required by state law and the
Concord Municipal Code, held a duly noticed public hearing on September 8, 2020, on the proposed
Amendment, considered testimony and information received at the public hearing and the oral and
written reports from City staff dated September 8, 2020, as well as other documents contained in the
record of proceedings relating to the proposed project, which are maintained at the offices of the City
of Concord City Clerk’s Office, 1950 Parkside Drive, Concord, CA (collectively, “Amendment
Information”), and declared their intent to approve and adopt the Amendment.

THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:

Section 1. All of the facts set forth in the Recitals are true and correct and are hereby
incorporated and adopted as findings of the City Council as if fully set forth herein.

Section 2. Pursuant to the California Environmental Quality Act of 1970, Public Resources
Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of
the California Code of Regulations (collectively, “CEQA”), the proposed Amendment to the
Municipal Code does not constitute a “project” within the meaning of Public Resources Code Section
21065 and CEQA Guidelines Sections 15060(c)(2), or 15378 because there is no potential that the
activity will result in a direct or reasonably foreseeable indirect or direct physical change in the
environment. Although the subject ordinance is designed to increase the number of available
microbusinesses City Cannabis Licenses, the proposed Amendment would not alter the underlying
land uses (such as manufacturing, light industrial or retail uses) that are currently permitted in the
subject zoning districts without a cannabis use component. Subsequent applications for a commercial
cannabis land use would be subject to individual review under CEQA. Moreover, even if the
proposed Amendment did comprise a project for CEQA analysis, it falls within the “common sense”
CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where “it
can be seen with certainty that there is no possibility that the activity in question may have a
significant effect on the environment.” Here, the proposed Amendment would allow for only two
additional commercial cannabis businesses, which would not cause any significant impacts apart from
underlying land uses that are already permitted in the subject zoning districts. In addition, Business
and Professions Code Section 26055(h) provides that CEQA does not apply to the adoption of an
ordinance, rule, or regulation that requires discretionary review and approval of permits, licenses or
other authorizations to engage in commercial cannabis activity as long as each subsequent
discretionary approval involves applicable CEQA review. Accordingly, no further environmental
review is required. This determination reflects the City’s independent judgment and analysis.

Section 3. The Amendment is consistent with the General Plan Policy E-2.1.1, which states
“establish land use priorities that foster entrepreneurship, growth, and innovative business
development” and Policy E-2.1.5, to “attract businesses in growth industries that require highly skilled
labor.” The Amendment is also consistent with Policy LU-6.1.2, which states “provide sites for
employment-generating businesses…and light industrial uses wishing to locate to Concord.”

Section 4. The Amendment would not be detrimental to the public interest, health, safety,
convenience, or welfare of the City, as the proposed Amendment maintains the four part regulatory
framework to evaluate certain cannabis businesses and commercial activities and includes conditions
of licenses to lessen potential impacts that may result from allowing adult-use cannabis and additional
cannabis licenses.

Section 5. The City Council has reviewed, considered, and evaluated all of the Amendment
Information prior to acting upon Amendment.

Section 6. The documents and other materials that constitute the record of proceedings upon
which the City Council has based its recommendation are located in and may be obtained from the
City of Concord Clerk’s Office, 1950 Parkside Drive, Concord, CA 94519.

Section 7. The Concord Municipal Code is hereby amended as set forth in Exhibit A, attached
hereeto and made a part hereof.

Section 8. This Ordinance shall become effective thirty (30) days following passage and
adoption. In the event a summary of said Ordinance is published in lieu of the entire Ordinance, a
certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least
five (5) days prior to its adoption and within fifteen (15) days after its adoption, including the vote of
the Councilmembers. Additionally, a summary prepared by the City Attorney’s Office shall be
published once at least five (5) days prior to the date of adoption of this Ordinance and once within
fifteen (15) days after its passage and adoption, including the vote of the Councilmembers, in the East
Bay Times, a newspaper of general circulation in the City of Concord.
Ordinance No. 20-XX was duly and regularly introduced at a regular meeting of the City Council of the City of Concord held on September 8, 2020, and was thereafter duly and regularly passed and adopted at a regular meeting of the City Council held on October 13, 2020, by the following vote:

**AYES:** Councilmembers -

**NOES:** Councilmembers -

**ABSTAIN:** Councilmembers -

**ABSENT:** Councilmembers -

I HEREBY CERTIFY that the foregoing is a true and correct copy of an ordinance duly and regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

By:__________________________________________

Joelle Fockler, MMC
City Clerk

Exhibit A: Amendments to CMC Chapter 5.80
Chapter 5.80

CANNABIS

Sections:
5.80.010 Purpose and intent.
5.80.020 Definitions.
5.80.030 City cannabis license required.
5.80.040 City cannabis license application.
5.80.050 Review of city cannabis license application and appeals.
5.80.060 City cannabis license term.
5.80.070 City cannabis license transfer or modification.
5.80.080 General conditions for all city cannabis licenses.
5.80.090 Conditions for specific city cannabis licenses.
5.80.100 Prohibited cannabis uses.
5.80.110 Fees.
5.80.120 Taxation. (Reserved)
5.80.130 Penalties.
5.80.140 Severability – Miscellaneous provisions.


5.80.010 Purpose and intent.
(a) On October 9, 2015, Governor Brown approved a series of bills commonly referred to as the “Medical Cannabis Regulation and Safety Act” (MCRSA), effective January 1, 2016, which created a state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution and sale of medical cannabis.

(b) In November 2016, the voters of the state of California approved Proposition 64, known as the “Control, Regulate and Tax Adult Use of Marijuana Act,” referred to as the “Adult Use of Marijuana Act” (AUMA), which legalized, subject to certain restrictions, specified nonmedical or adult cannabis uses for purposes of state law.

(c) Thereafter, the state legislature passed the “Medicinal and Adult Use Cannabis Regulation and Safety Act” (MAUCRSA), which reconciled the differences between MCRSA and AUMA, and created a comprehensive state licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, delivery and sale of both adult and medicinal use of cannabis.

(d) It is the purpose and the intent of the City Council to regulate cannabis businesses consistent with state law and to protect the health, safety, and welfare of the residents of Concord. The regulations in this chapter do not interfere with a qualified patient’s right to obtain and use cannabis as authorized by state law, nor do they criminalize the possession or cultivation of cannabis by certain individuals as allowed under state law.

(e) Cannabis businesses shall comply with all provisions of the Concord Municipal and Development Code, state law, and all other applicable local codes and regulations, including all applicable land use and zoning regulations imposed on cannabis businesses. It is neither the intent of this chapter to condone or legitimate the illegal use or consumption of cannabis under federal, state or local law, nor to authorize the operation of a legal business in an illegal manner.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.020 Definitions.
For purposes of this chapter, the following definitions shall apply:

Accessory building or structure means a building or structure that is not part of the principal dwelling unit on the parcel, the use of which is incidental and subordinate to the use of the principal dwelling. Examples of accessory buildings or structures include, but are not limited to: garages, tool sheds, storage sheds, carports, greenhouses, pool cabanas, and other outbuildings or structures.
Adult cannabis use or adult use means all uses of cannabis and cannabis products by adults 21 years and over, also referred to as “recreational” or “personal” cannabis use.

AUMA refers to the California State law entitled “Control, Regulate and Tax Adult Use of Marijuana Act of 2016,” also known as Proposition 64, and any regulations promulgated thereunder.

Buffer area or buffer areas means the minimum separation distance between a particular commercial cannabis activity or use and a particular “sensitive land use” or activity, e.g., schools, child day care facility, or youth community centers, as designated by state laws or regulations, or as set forth in this chapter and in the Development Code. The separation distance shall be the horizontal distance measured in a straight line from the property line of the sensitive use to the closest property line of the lot on which the commercial cannabis activity or use is to be located, without regard to intervening structures.

Bureau of Cannabis Control (BCC) means the lead state agency or successor agency responsible for regulating and licensing commercial medicinal and adult use cannabis in California, which is also responsible for licensing retailers, distributors, testing laboratories microbusinesses, and temporary cannabis events.

Cannabis includes the term “marijuana” and means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination, as defined by California Business and Professions Code Section 26001(f), or any successor statute thereto. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code, as that section may be amended or interpreted by the California courts or superseded by any successor statute.

Cannabis accessories means any equipment, products, materials or paraphernalia of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body, as defined by California Health and Safety Code Section 11018.2, or any successor statute thereto.

Cannabis business or commercial activity means a business, enterprise, collective or cooperative engaged in commercial cannabis activity or cannabis land use, including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body, as defined by California Health and Safety Code Section 11018.2, or any successor statute thereto.

Cannabis business owner or owner means a person who is entitled to a share of at least 20 percent of the profits of the commercial cannabis business, as defined by California Business and Professions Code Section 26001(al), or any successor statute thereto, including:

1. A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

4. An individual who will be participating in the direction, control, or management of the person applying for a license.
(5) Any individual who is entitled to a financial interest in the commercial cannabis business, including individuals who have entered into an agreement to share in the profits of the commercial cannabis business.

Cannabis product means marijuana or cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, an edible, a topical product containing cannabis, or concentrated cannabis and other ingredients, as defined by Health and Safety Code Section 11018.1, or any successor statute thereto.

Cannabis regulation or cannabis regulations means, collectively, the regulations codified at: California Business and Professions Code Section 26000 et seq., “Medicinal and Adult Use Cannabis Regulation and Safety Act” (MAUCRSA); California Code of Regulations Title 16, Division 45, Bureau of Cannabis Control; California Code of Regulations Title 3, Food and Agriculture Division 8, Cannabis Cultivation, Chapter 1, Cannabis Cultivation Program; California Code of Regulations Title 17, Division 1, Chapter 13, Manufactured Cannabis Safety; and any successor regulations thereto. The generic terms ”regulations” or “laws” include cannabis regulations.

CBD means the compound cannabidiol, as defined by the California Code of Regulations, Title 17, Division 1, Chapter 13, Section 40100, or any successor statute or regulation thereto.

CDFA means the California Department of Food and Agriculture, which is responsible for issuing state licenses to operate a commercial cannabis cultivation business.

CDPH means the California Department of Public Health, which is responsible for issuing state licenses to operate a commercial cannabis manufacturing business.

Chief of Police means the City of Concord Chief of Police or designee.

City approval means, collectively, any applicable local cannabis license, cannabis permit, stamp, signature or other notation on approved plans, use permit, minor use permit, administrative permit, zoning clearance, variance, exception, building permit, business or other license, environmental permit, or other applicable entitlement or approval, and compliance with applicable state and local laws and regulations.

City cannabis license means a revocable license that is issued by the Chief of Police for a cannabis business or commercial activity, which is permitted under this chapter and licensed by the state, as identified in California Business Code Section 26050(a), or any successor statute therein.

City Manager means the City of Concord City Manager or designee.

Community Benefit Agreement means an agreement entered into between the City and a City Cannabis Licensee, which sets forth the terms and conditions under which a City Cannabis License holder may operate that are in addition to the requirements of this Chapter, including but not limited to public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare of the City and its residents.

Cultivation means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, as defined by California Business and Professions Code Section 26001(l), or any successor statute thereto.

Customer means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver, as defined by California Business and Professions Code Section 26001(n), or any successor statute thereto.

Delivery means the commercial transfer of cannabis or cannabis product or products to a customer, and also includes the use by a cannabis retailer of any technology platform, as defined by California Business and Professions Code Section 26001(p), or any successor statute thereto.

Dispensary. See “Retailer.” Distributor (Type 11) means a cannabis business that transports cannabis and cannabis products between licensees, which may include arranging for testing of cannabis and cannabis products, and conducting the quality assurance review of cannabis and cannabis products to ensure compliance with all state packaging and labeling requirements, as allowed with a state-issued Type 11 distribution license.
**Distributor Transport Only (Type 13)** means a cannabis business that only transports cannabis and cannabis products between licensees, and is not permitted to transport any cannabis or cannabis products, except for immature cannabis plants and/or seeds, to a licensed retailer or to the retailer portion of a licensed microbusiness, as allowed with a state-issued Type 13 distribution license. This definition also includes distributors who are licensed by the state for self-distribution and are permitted to transport cannabis and cannabis products that the licensee has cultivated or manufactured. A Distributor Transport Only self-distribution licensee is not permitted to transport cannabis and cannabis products cultivated or manufactured by other licensees. **Indoor** means any location that is within a fully enclosed nonresidential building or structure, or private residence.

**Industrial hemp** means a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

**Manufacture** means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product, as defined by California Business and Professions Code Section 26001(ag), or any successor statute thereto.

**Manufacturer** means a cannabis business that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container, as defined by California Business and Professions Code Section 26001(ah), or any successor statute thereto.

**MAUCRSA** means the Medicinal and Adult Use Cannabis Regulation and Safety Act (Business and Professions Code Section 26000 et seq.).

**MCRSA** means the Medical Cannabis Regulation and Safety Act.

**Medicinal cannabis or medical cannabis use** means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, as defined in California Health and Safety Code Section 11362.5, or any successor statute thereto.

**Microbusiness** means a cannabis business allowed to engage in the cultivation of cannabis on an area less than 10,000 square feet, and to act as a licensed distributor, Level 1 manufacturer (Type 6 license), and/or retailer, if duly licensed by the Bureau of Cannabis Control, as defined by California Business and Professions Code Section 26070(a)(3)(A), or any successor statute thereto. A microbusiness shall engage in at least three (3) of these four (4) commercial cannabis activities: retail, distribution, manufacturing, or cultivation.

**Minor** means any person who is under 21 years of age.

**Non-storefront retailer** means a cannabis business or commercial activity that is closed to the public and only sells cannabis, cannabis products, and cannabis accessories exclusively through delivery, as defined by California Business and Professions Code Section 26001(p), or any successor statute thereto.

**Outdoor** means any location within the city that is not within a fully enclosed nonresidential building or structure, or within a private residence.

**Parcel** means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (California Government Code Section 66410 et seq.). A parcel may or may not be improved, including but not limited to: buildings, structures, and/or private residences.

**Person** includes any individual, firm, entity, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular, as defined by California Business and Professions Code Section 26001(an), or any successor statute thereto.

**Primary caregiver**, as defined by California Health and Safety Code Section 11362.7(d) or successor statute thereto, means an individual, designated by a qualified patient or by the person with an identification card, who has
consistently assumed responsibility for the housing, health, or safety of that patient or person, including cases in which a qualified patient or person receives medical care or supportive services, or both, from: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; (3) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and (5) the delivery, administration or provision of medical cannabis by a designated primary caregiver to the qualified patient of the primary caregiver or the person with an identification card who has designated the individual as a primary caregiver at the primary residence of the qualified patient or person with an identification card who has designated the individual as a primary caregiver.

*Private residence* means a legally permitted house, an apartment unit, a mobile home, accessory dwelling unit, or other similar dwelling. To the extent allowed by law, a private residence must be currently, presently, and lawfully utilized as the primary dwelling of one or more natural persons.

*Qualified patient* means a patient that uses or ingests cannabis or cannabis products for medical purposes as defined in California Health and Safety Code Section 11362.7, or any successor statutes thereto.

*Regulatory approval* means, collectively, any applicable state cannabis license, state or regional environmental permit, laws, rules, regulations, or other applicable entitlement or approval, and compliance with applicable state and local laws and regulations.

*Retailer* means a cannabis business, either “storefront retailer” or “non-storefront retailer”, which provides for the retail sale and/or delivery of cannabis, cannabis products, and cannabis accessories to customers from a physical location from which commercial cannabis activities are conducted, as that term is used in California Business and Professions Code Section 26070 et seq., or any successor statute thereto.

*Sensitive land use* means a legally established use within the city consisting of (1) a public or private school that provides instruction from kindergarten to grade 12; (2) a child day care facility, other than a large or small licensed family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers; or (3) a youth community center, which is defined as a public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

*State license* means any license or permit issued by a state agency for a cannabis use, activity or type, as identified in California Business and Professions Code Section 26050(a), or any successor statute thereto.

*Storefront retailer* means a cannabis business or commercial activity that has premises with direct physical access for the public.

*Testing laboratory* means a laboratory, facility, or entity that offers or performs tests of cannabis and/or cannabis products and is accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity and is also licensed by the Bureau of Cannabis Control, as defined by California Business and Professions Code Section 26001(at), or any successor statute thereto. Testing laboratory activity or uses may also include research and development of cannabis and cannabis products for scientific purposes.

*THC* means the compound 9-tetrahydrocannabinol, as defined by the California Code of Regulations, Title 17, Division 1, Chapter 13, Section 40100, or any successor statute or regulation thereto.

*Volatile solvent* means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(Ord. No. 18-3, § 7 (Exh. B))
5.80.030 City cannabis license required.

(a) City cannabis license required. No cannabis business shall be allowed to operate within the city unless the cannabis business first obtains a city cannabis license from the Chief of Police. The city cannabis license shall be specific to the location where the cannabis business will operate and shall specify the type of commercial cannabis activity. Multiple operating locations for the same cannabis business will require separate city cannabis licenses. In addition, multiple cannabis activities shall require separate city cannabis licenses for each license type, as described in subsection (e) of this section.

(b) Conditional city cannabis license. A conditional city cannabis license consistent with subsection (a) may be issued by the Chief of Police to initiate the State licensing process as an interim step prior to issuance of the city cannabis license.

(c) Required approvals for operation. After issuance of the city cannabis license by the Chief of Police, no cannabis business licensee may operate in the city until the licensee provides to the Chief of Police satisfactory proof of the following:

1. The appropriate land use approval (use permit, minor use permit, administrative approval, or zoning clearance) from the city, including the appropriate environmental review under the California Environmental Quality Act (CEQA);
2. The corresponding state license or regulatory approval for the specific cannabis use or activity;
3. A business license from the city;
4. A fully executed development agreement or community benefit agreement, if required by the City.

(d) Revocable license. Any city cannabis license issued under this chapter is a revocable license; the issuance or granting of a license under this chapter expressly does not constitute or provide for a permanent right or vested land use right to conduct a cannabis business, use, or cannabis commercial activity with the city.

(e) Types of licenses. A cannabis business may apply for any of the following city cannabis licenses for cannabis businesses operating within city limits:

1. City cannabis manufacturer license. A city cannabis manufacturer license is required for a cannabis business that intends to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product for use.

2. City cannabis distributor transport only (Type 13) license. A city cannabis distributor transport only license (Type 13) is required for a cannabis business that intends to only transport cannabis and cannabis products between state licensees, and is not permitted to transport any cannabis or cannabis products, except for immature cannabis plants and/or seeds, to a licensed retailer or to the retailer portion of a licensed microbusiness. This license also allows self-distribution transportation of cannabis and cannabis products that the licensee has cultivated or manufactured, but does not permit transportation of cannabis or cannabis products cultivated or manufactured by other licensees.

3. City cannabis distributor (Type 11) license. A city cannabis distributor license (Type 11) is required for a cannabis business that intends to transport cannabis between licensees, which may include arranging for testing of cannabis and cannabis products, and conducting the quality assurance review of cannabis goods to ensure compliance with all state packaging and labeling requirements.

4. City cannabis microbusiness license. A city cannabis microbusiness license is required for a cannabis business that conducts three of the following activities: a) cultivation (indoor only) of cannabis in an area less than 10,000 square feet; b) distribution; c) manufacturing; and/or d) retail.

5. City cannabis non-storefront retailer license. A city cannabis non-storefront retailer license is required for a cannabis business or commercial activity which provides for the retail sale of cannabis and cannabis products to customers from a physical location via delivery, and is closed to the public.
(6) *City cannabis storefront retailer license.* A city cannabis storefront retailer license is required for a cannabis business or commercial activity which provides for the retail sale cannabis and cannabis products to customers from a fixed location with direct physical access for the public.

(7) *City cannabis testing laboratory license.* A city cannabis testing laboratory license is required for a cannabis business, facility, or entity that offers or performs tests of cannabis or cannabis products and is accredited and licensed by the appropriate state agencies. Cannabis testing laboratory licenses cannot be paired with other city cannabis license types.

(8) *City cannabis delivery license.* A city cannabis delivery license is required for retailers (storefront or non-storefront), or microbusinesses which are licensed by the state and located outside of Concord city limits, to deliver cannabis to customers located in the city.

(f) **Determination of city cannabis license type.** As the state or Bureau of Cannabis Control develops additional or amends existing state licenses for cannabis businesses or activities, the Chief of Police shall have the discretion to issue a city cannabis license to the extent the additional state license businesses or activities are similar to any of the city cannabis license types approved to be issued by the city.

(g) **Limitation on quantity of commercial cannabis licenses.** The Chief of Police may approve city cannabis licenses in an amount not to exceed:

1. Five city cannabis manufacturer licenses;
2. Four city cannabis microbusiness licenses *without a storefront retailer component.* Of these four microbusiness licenses, a maximum of two microbusinesses may include a storefront retail component, and a maximum of two microbusinesses may include a non-storefront retailer component;
3. Two city cannabis microbusiness licenses *with a storefront retailer component.*
4. Three city cannabis non-storefront retailer licenses;
5. Three city cannabis storefront retailer licenses;
6. Two city cannabis distributor Type 11 licenses;
7. *City cannabis distributor transport only Type 13 license shall only be issued in conjunction with a corresponding city cannabis license issued by the Chief of Police (such as manufacturing). The number of city cannabis distributor transport only Type 13 licenses shall not exceed the amount of licenses issued for each approved city cannabis license with the exception of cannabis testing laboratory. No standalone distributor transport only Type 13 license shall be allowed.*

(h) **Exceptions to city cannabis license requirement.** The following noncommercial activities are allowed and do not require a city cannabis license under this chapter, provided the use or activity does not constitute a commercial cannabis business or activity and complies with state and local laws:

1. Possession of not more than 28.5 grams of cannabis not in the form of concentrated cannabis by persons 21 years of age or older for personal consumption.
2. Possession of no more than eight grams of cannabis in the form of concentrated cannabis, including as contained in cannabis products, by persons 21 years of age or older for personal consumption.
3. Possession, planting, cultivating, harvesting, drying or processing of not more than six living cannabis plants by persons 21 years of age or older in a private residence or inside an accessory building or structure on a parcel developed with a private residence, within a fully enclosed, secure, locked space, for noncommercial use/purposes consistent with state law.

(Ord. No. 18-3, § 7 (Exh. B))
5.80.040 City cannabis license application.
The form and content of the application for a license, shall be specified by the Chief of Police and shall include the following minimum information, as applicable to the city cannabis license type:

(1) **Identifying information for ownership and management.** The name and address for each owner and an explanation of the legal form of business ownership; for example, sole proprietor, partnership, California corporation, etc.

(2) **Additional identifying information, owners and key employees.** Each cannabis business owner, as well as each employee who makes or will make operational or management decisions that directly impact the business, shall submit electronic fingerprint images, proof of residency, and related information required by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests to be considered as set forth in this chapter. Any changes as to the owner(s), key employee(s) or manager(s) and their respective identifying information shall be promptly submitted to the Chief of Police for supplemental background checks of these individuals.

(3) **Description of premises.** The address and assessor’s parcel number(s) of the location for the proposed commercial cannabis activity, and the name and contact information for the property owner(s) where the proposed commercial cannabis activity will be located.

(4) **State license type and compliance.** A description of the specific state cannabis license(s) that the cannabis business either has obtained or plans to obtain. The cannabis business shall describe how it will meet the state licensing requirements, and provide supporting documentation as required by the Chief of Police.

(5) **Other local licenses.** A description of the specific cannabis license or permits that the applicant either has obtained or plans to obtain from other local jurisdictions, agencies, departments, or special districts.

(6) **Description of operations.** A written description of the nature of the proposed commercial cannabis activity, product type, average production amounts, including a description of each product produced by type, amount, process and rate, and source(s) of cannabis.

(7) **Security plan.** A description and documentation of how the applicant will secure the premises 24 hours per day, seven days per week, and how waste derived from any cannabis commercial activity will be disposed of in a manner to ensure it may not be utilized for unlawful purposes. The security plan shall include, but is not limited to, the following:

   a. Preventing individuals from remaining on the premises if they are not engaged in activity expressly related to the operations of the commercial cannabis activity;

   b. Establishing limited access areas accessible only to authorized personnel including security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products;

   c. Storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale, if applicable;

   d. Including a minimum of a two-point security precaution that incorporates structures or physical barriers to regulate access to cannabis and money and prevents access of customers throughout the entire facility;

   e. Providing tamper-proof and tamper-evident packaging for finished cannabis products;

   f. Preventing off-site impacts to adjoining or near properties;

   g. Limiting the amount of cash on the premises and providing a cash management plan for the safe handling and transferring of money;
h. Identifying the area(s) where distribution activities will occur on private property and outside of public view in a safe and secure environment;

i. Providing an adequate alarm system;

j. Provide an adequate security surveillance system. Security surveillance footage shall be retained for a minimum of 14 days and be subject to review and collection by the Police Department upon request. Such footage shall be provided within three days of request. Security surveillance shall include, but not be limited to, the coverage of all ingress and egress to building(s), adjoining parking lot(s), walkways, driveways, or other exterior property space;

k. Providing armed security guard(s) that are appropriately licensed by the California Bureau of Security and Investigative Services or approved equivalent. Quantity and location of guards shall be evaluated by the Chief of Police;

l. Providing a cannabis business contact who can respond to the city and neighbors regarding complaints; and

m. Identifying measures to prevent unlawful loitering and excessive noise.

(8) Tracking system. A description of how the cannabis business will track inventory of cannabis product, consistent with state law.

(9) For cannabis businesses applying for a city cannabis delivery or distributor (Type 11 or 13) license, or a retail (storefront or non-storefront) or microbusiness conducting sales via delivery:

a. Listing of all vehicles and devices to be used for delivery or transportation of cannabis or cannabis product within the city, which includes the vehicle’s make, model, year, license plate number and vehicle identification number.

b. Identifying all persons who will deliver cannabis or cannabis product in the city. Such individuals must be at least 21 years of age at the time of submittal of the application.

c. Copies of applicable authorizing state and local licenses and permits issued to cannabis business allowing it to engage in commercial cannabis activity.

(10) Insurance. Certificate of insurance and endorsement demonstrating ability to comply with the insurance requirements for the applicable license in a form acceptable to the City Attorney.

(11) Indemnification and release. An agreement, in a form approved by the City Attorney, whereby the applicant:

a. Releases the city, its officers, officials, agents, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from (1) any repeal or amendment of this chapter or any provision of the city’s development code relating to the cannabis business or cannabis commercial activity; and (2) any arrest or prosecution of applicant or its managers, employees or staff for violation of state or federal laws; and

b. Indemnifies, defends and hold harmless to the fullest extent permitted by law the city, its officers, officials, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney’s fees), suits or other expenses resulting from or in connection with licensee’s operations, except such liability caused by the active negligence, sole negligence or willful misconduct of city, its officers, officials, agents and employees.

(12) Signature of applicant and property owner. The application shall be signed by each cannabis business owner under the penalty of perjury, certifying that the information submitted, including all supporting documents, is, to the best of the applicant’s knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the
property for the purposes stated in the application. The signature of both the cannabis business owner and the property owner shall constitute evidence of their express consent to allow any city official or employee to enter upon and inspect the premises upon reasonable notice.

(13) To the extent permitted by the state and federal law, the city shall endeavor to treat the information required by this section as confidential. Disclosure of such information shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The city shall incur no liability for the inadvertent or negligent disclosure of such information.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.050 Review of city cannabis license application and appeals.

(a) Review of application. The Chief of Police shall consider the application, and the results from any investigation into the application, as deemed necessary by the Chief of Police.

(b) Notification of decision. The Chief of Police’s notification of his or her decision on the application shall be made in writing and shall either include conditions of approval, if deemed necessary by the Chief, or the reasons for the denial of the application. Notification of denial shall be delivered by first class mail to the applicant. If denied, no license shall be issued unless a successful appeal of the denial is made within the requisite time frame.

(c) Appeal of decision.

(1) Within 10 calendar days after the date of the Chief of Police’s decision, an applicant may appeal the decision by notifying the City Clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.

(2) The City Clerk shall set a hearing on the appeal and shall fix a date and time certain, within 45 calendar days after the receipt of the applicant’s appeal, unless the city and the applicant agree to a longer time, to consider the appeal. The City Clerk shall provide notice of the date, time and place of hearing.

(3) The City Manager shall appoint a Hearing Officer to hear the appeal and determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the Chief of Police shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.

(4) The Hearing Officer shall issue a written decision within 15 calendar days after the close of the hearing. The decision of the Hearing Officer shall be final.

(d) Grounds for denial, renewal denial, revocation or suspension of license. The granting of a license or a renewal thereof may be denied and an existing license revoked or suspended if:

(1) The cannabis business owner has knowingly made a false statement in the application or in any reports or other documents furnished to the city.

(2) The cannabis business owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the cannabis business for which the application is made, which includes but is not limited to:

   a. A violent felony conviction, as specified in Penal Code Section 667.5(c).

   b. A serious felony conviction, as specified in Penal Code Section 1192.7.

   c. A felony conviction involving fraud, deceit or embezzlement.

   d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
e. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code Section 11370.4 or 11379.8.

(3) The cannabis business or a cannabis business owner has been sanctioned by a licensing authority or other city or county for unauthorized commercial cannabis activity.

(4) The granting or renewing of the license would perpetuate or encourage any of the following:
   a. Providing or exposing cannabis or cannabis products to minors;
   b. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs, cartels, and similar persons;
   c. Diversion of cannabis or cannabis products to jurisdictions outside of the state;
   d. Trafficking of other illegal drugs or facilitation of other illegal activity;
   e. Violence and the use of firearms;
   f. The illegal or unauthorized use of public lands in the cultivation of cannabis; or
   g. The use of federal property for commercial cannabis activity.

(5) For any other reason that would allow the state to deny a license or permit under AUMA, MCRSA, and/or MAUCRSA, or any other state law.

(6) Fails to pay required city fees and taxes.

(7) Violates any provision of AUMA, MCRSA, MAUCRSA, state license, city cannabis license, or the Concord Municipal Code (including the development code).

(8) Except as provided in subsections (d)(2)(d) and (e) of this section, an application for a city cannabis license shall not be denied if the sole ground for denial is based upon a prior conviction of either Section 11350 or Section 11357 of the California Health and Safety Code. An application for a license also shall not be denied if the state would be prohibited from denying a license pursuant to either Section 26057(b)(5) or Section 26059 of the California Business and Professions Code. Conviction of any controlled substance felony subsequent to license issuance shall be grounds for revocation of a license or denial of the renewal of a license.

(9) Is in violation of the Concord Municipal Code (including development code).

(10) Is in violation of applicable state and local laws and regulations.

(11) Does not have current, valid state or regulatory approval or is in violation of a state or regulatory approval.

(12) Is in violation of any city approval, including conditions imposed on the license for the commercial cannabis activity or use.

(e) Suspension and revocation.

(1) If the Chief of Police deems continuation of the operation of a cannabis business will cause a significant threat to the health, safety or welfare of the public, the Chief of Police may immediately suspend the city cannabis license and all rights and privileges thereunder until a Hearing Officer renders a written decision on the revocation of the city cannabis license.

(2) The Chief of Police shall give notice to the cannabis business of his or her intent to revoke a city cannabis license in the same manner as the notice of the application decision and provide the City Clerk with a copy of the notice.
(3) The hearing for the revocation of the city cannabis license shall be set and conducted in the same manner as an appeal of decision. The decision of the Hearing Officer shall be final.

(f) Prohibition of multiple licenses for the same commercial cannabis activity or use at same location. No cannabis business owner or person may possess multiple city cannabis licenses for the same license type or substantially same cannabis use (e.g., a cannabis manufacturer license and a microbusiness license with a manufacturing component) at the same location. Upon approval of a subsequent city cannabis license at the same location for the substantially the same activity or use, the prior license shall be deemed to automatically have been surrendered, and will be null, void, and superseded by the new license. The Chief of Police shall determine whether the cannabis activities or uses are at the same location or are substantially similar.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.060  City cannabis license term.

(a) Duration. The city cannabis licenses shall be valid for one year from the date of issuance; provided, however, that the Chief of Police has the discretion to extend the term or renewal term of a city cannabis license for a period of up to two years from the date of issuance. The license term may also be extended by the City Council for a period of up to five (5) years, pursuant to the terms of a community benefit agreement, development agreement, or as part of a competitive selection process.

(b) Renewal. A license renewal application and any applicable fees must be submitted at least 60 days before the expiration of the license. Failure to submit a renewal application prior to the expiration date of the license will result in the automatic expiration of the license on the expiration date. License renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a license under this chapter.

(c) Application Deemed Withdrawn. To promote efficient review and timely decisions, any cannabis license application governed under this chapter will be automatically deemed withdrawn by the applicant, without any further action by the City, if the applicant fails to respond to the City within 45 calendar days after the Police Department deems the application incomplete in a written notice to the applicant. The Police Department may, in its sole and absolute discretion, grant a written extension for up to a total of 15 calendar days if the applicant submits a written request prior to the deemed withdrawn date that shows good cause to grant the extension. Any extension shall be subject to additional fees.

(d) License Expiration. Any city cannabis license approved pursuant to this chapter or pursuant to a competitive selection process shall automatically expire and become null and void, without any further action by the City, unless the proposed cannabis use is established within six months from the date of approval by the decision-making body or if the cannabis use ceases for a period of six months as determined by the Planning Division, at any time after its commencement. The Planning Division may, at its sole and absolute discretion, grant a written extension for an additional six months, if the applicant submits a written request prior to the expiration date that demonstrates that they have diligently attempted to exercise the license but were unable due to circumstances beyond their control. Any extension shall be subject to any additional fees.

(e) Resubmittal.

(1) Resubmittal Prohibited Within 12 Months. For a period of 12 months following expiration of a cannabis license application or expiration of a cannabis license, no application for the same or substantially similar license for the same site shall be submitted. If a new application is allowed pursuant to subsection ii, a completely new application shall be filed, including all submittal requirements and current filing fees, in accordance with the requirements of this chapter.

(2) City Determination. The Planning Division shall determine whether the new application is the same or substantially similar to the expired application or license, and shall issue a written determination to the applicant.
(3) Appeal. The determination of the Planning Division may be appealed to the Chief of Police within 10 calendar days of the date of decision. The decision of the Chief of Police shall be final.

(f) Sensitive Land Use Hardship Application. Upon the written application of a new or renewal of a city cannabis license, if it is determined that a sensitive land use, as defined by this chapter, is located within 250 feet of the existing cannabis business, the cannabis business may request an exception to the sensitive land use requirement of Section 5.80.080(b) of this chapter, which may be granted or denied by the Chief of Police pursuant to this chapter.

(1) The Chief of Police shall consider the following factors in his or her consideration of granting the hardship application:

a. The relative locations of sensitive uses and the proposed cannabis business and whether there are any existing physical barriers or impediments in the path of travel between the sensitive use and proposed cannabis business activity.

b. In the case of a renewal application, whether the licensee has satisfactorily complied with all of the conditions of each respective license(s), including but not limited to compliance with state licensing standards and the approved Security Plan, or whether there have been repeated violations, acts of negligence or receipt of complaints from the public concerning the commercial cannabis operations.

c. Whether there are other factors, such as the respective nature and day-to-day operations of the sensitive use and the proposed commercial cannabis activity, which would not lead to undue exposure or danger of illegal activity directed to minors.

(2) The Chief of Police’s denial of a hardship application may be appealed in writing to the City Manager within ten (10) days of notice of the Chief’s decision. The City Manager’s decision on the appeal shall be final.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.070 City cannabis license transfer or modification.

(a) A city cannabis license is nontransferable to another location, and no transfer to another cannabis business owner or modifications to a permitted facility may be made unless the Chief of Police approves the transfer or modification. The Chief of Police may also refer the request for transfer or modification to the City Council for consideration.

(b) A request for change in license ownership or of key employees who make operational or management decisions shall be submitted to the Chief of Police on a city form at least 60 days prior to the anticipated transfer of ownership, or, in the case of change of management employees, within 15 calendar days, together with any applicable fee(s). Requests submitted later than these time periods will be processed only in the city’s discretion and may be subject to an expedited processing fee. A new owner(s) or key employees shall meet all requirements for applicants of an initial license. The request shall include the following information:

(1) Identifying information for the new cannabis business owner(s) and management as required in an initial city cannabis license application;

(2) A written certification by the new cannabis business owner as required in an initial license application;

(3) The specific date on which the transfer is to occur; and

(4) Acknowledgement of full responsibility for complying with the existing license.

(c) Change in security plan. A request to modify the security plan shall be submitted to the Chief of Police in writing at least 30 days prior to the anticipated change, together with the applicable fee.

(d) Change of contact information. A request for change in cannabis business contact information shall be submitted to the Chief of Police in writing at least 30 days prior to the anticipated change, together with the applicable fee.
(e) Change in trade name. A request for change in cannabis business trade or business name shall be submitted to the Chief of Police in writing at least 30 days prior to the anticipated change, together with the applicable fee.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.080 General conditions for all city cannabis licenses.

(a) State license. The cannabis business shall hold a valid state license (provisional or permanent) for the equivalent state license type for the entire duration of the city cannabis license.

(b) Sensitive Land Use. No cannabis business shall be located within 250 feet of a sensitive land use, as defined in Section 5.80.020, except as provided in Section 5.80.060(f) (Sensitive Land Use Hardship) or unless otherwise directed by Council through the competitive selection process. No sensitive land use shall be located in the buffer area that is within 600 feet of the Commercial Cannabis Overlay District (Chapter 18.110).

(c) Prohibited products. No cannabis business may sell, store, distribute or allow the consumption of any alcoholic beverages or tobacco products on or at any premises where cannabis is sold.

(d) Cannabis consumption onsite prohibited. No cannabis business may allow, permit, or provide for the consumption of cannabis products on site where the cannabis business is located, with or without compensation.

(e) Hours of operation. All permitted facilities, with the exception of storefront retail, shall be closed to the general public. No direct sales of cannabis or cannabis products to the general public shall occur except via delivery from a licensed business to a private residence. The Chief of Police may limit the hours for transporter deliveries and pick-ups. Storefront retail cannabis businesses shall not be open to customers outside of 7:00 a.m. to 10:00 p.m. daily without authorization from the Chief of Police.

(f) Odor control. Odors shall be contained within the licensed tenant space on which the commercial cannabis activity is located. Cannabis licensees shall prevent all odors generated from the cannabis use from escaping buildings to the extent that odor cannot be detected by a reasonable person of normal sensitivity outside the buildings, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the cannabis licensee, if the use only occupies a portion of a building. If the city receives any odor complaints that rise to the level of a public nuisance, the cannabis business shall work with the city staff to correct odor concerns. Unresolved or repeated odor complaints may be the basis for suspension or revocation of the city cannabis license or denial of city cannabis license renewal.

(g) Business conducted within building. No production, distribution, storage, display or wholesale of cannabis and cannabis products shall be visible from the exterior of the building where the commercial cannabis activity is being conducted, except as authorized by the Chief of Police.

(h) Protection of minors. No cannabis business shall employ anyone who is younger than 21 years of age. No cannabis business shall sell or advertise to sell any cannabis, cannabis product or cannabis accessory to minors, except in circumstances where the minor is over 18 years of age and is permitted or allowed by state law to purchase or possess medicinal cannabis, as set forth in California Business and Professions Code Section 26140, or any successor statute thereto.

(i) Security. All cannabis businesses shall maintain a commercial burglar alarm monitoring system, install a video surveillance system, and comply with the security plan approved by the Chief of Police. A cannabis business shall notify the Police Department immediately, and within 24 hours after discovering any of the following:

1. Diversion, theft, loss, or any criminal activity involving the cannabis or cannabis products or any agent or employee of the licensee.

2. The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers or employees or agents.

3. Significant discrepancies identified during inventory.

4. Any other material breach of security.
(j) **Labeling and packages.** Labels and packages of cannabis and cannabis products shall meet all state and federal labeling and packaging requirements.

(k) **Inspections.** City representatives may enter and inspect the property of every cannabis business to ensure compliance and enforcement of the provisions of this chapter, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. Such inspections shall occur during normal regular business hours unless the city has provided prior written notice to the cannabis business for an after-hours inspection. Upon request, the cannabis business shall timely provide the city official with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises, inventory, financial records, and inventory tracking records. This section shall not limit any inspection authorized under any other provision of law or regulation.

(l) **Business license.** Obtain and maintain a business license from the city.

(m) **Insurance.** Maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than $2,000,000 per occurrence and comprehensive automobile liability (owned, nonowned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than $2,000,000. The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall include an endorsement that specifies the insurance coverage afforded to the city shall be primary and noncontributory, and shall name the city, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the city cannabis license immediately and, ultimately, revocation.

(n) **Indemnification.** By accepting the city cannabis license and executing the application form, each licensee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law the city, its officers, officials, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney’s fees), suits or other expenses resulting from and arising out of or in connection with licensee’s operations, except such liability caused by the active negligence, sole negligence or willful misconduct of city, its officers, agents and employees.

(o) **Recordkeeping.** Maintain, for a minimum of seven years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the licensee in accordance with generally accepted accounting practices and standards typically applicable to business records, which shall be made available to the city during business hours for inspection upon reasonable notice by the Chief of Police.

(p) **Notice of violations.** Notify the Chief of Police within three calendar days of any notices of violations or other corrective action ordered by a state or other local licensing authority, and provide copies of the relevant documents.

(q) **Building permits.** The cannabis business shall obtain all building permits required pursuant to Title 15 for any electrical, plumbing, or other construction activities.

(r) **Planning permits.** The cannabis business shall obtain all planning permits, as required by the city’s Development Code. Cannabis businesses are required to upgrade any property that does not meet current development standards and shall submit a complete design and site review application for review and approval prior to occupancy.

(s) **Sewer discharge.** No cannabis, cannabis byproducts, or associated hazardous materials may be discharged into the sanitary sewer system (including, but not limited to, sinks, toilets, or storm drains).

(t) **Secure trash receptacles.** All indoor and outdoor trash receptacles shall be locked and secured in manner to prevent tampering, theft, and/or removal of any cannabis refuse or the trash receptacle.

(u) **Waste disposal.** Disposal of cannabis, cannabis products, and cannabis waste shall occur in accordance with state law.
(v) Temporary cannabis events. Temporary cannabis events shall be prohibited.

(w) Other agency approvals. The cannabis business shall be required to obtain approval from the Fire District, Health Department, and Central Contra Costa Sanitary District.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.090 Conditions for specific city cannabis licenses.

In addition to the general conditions included in Section 5.80.080, the following city cannabis licenses approved or issued by the Chief of Police shall also be subject to the following conditions as deemed appropriate to the proposed commercial cannabis activity or use:

1. City cannabis manufacturer license, microbusiness license with a manufacturer component. Any city cannabis manufacturer license, and any microbusiness with a manufacturer component, shall be subject to the following conditions:
   a. A manufacturer licensee shall employ at least one full-time quality control personnel.
   b. A manufacturer licensee must establish standard operating procedures and batch records that comply with good manufacturing practices and any applicable state law.
   c. All finished cannabis products produced by a manufacturer licensee must be labeled and packaged in child-resistant packaging prior to leaving the manufacturing premises in accordance with state law.
   d. A manufacturer licensee using volatile solvents must comply with state law, procure approval from the Contra Costa County Fire Protection District, and operate in a manner to reduce the risk of explosion or danger to public health.

2. City cannabis distributor (Type 11 and Type 13) license, microbusiness license with a distributor component. Any city cannabis distributor license, and any microbusiness with a distributor component, shall be subject to the following conditions:
   a. A city cannabis distributor transport only Type 13 license cannot be issued without a corresponding city cannabis license (e.g. manufacturing) issued by the Chief of Police.
   b. Vehicles used for distribution of cannabis or cannabis products shall not advertise any activity related to cannabis nor shall they advertise the name of the licensee.
   c. A city cannabis distributor licensee shall register with and provide the Chief of Police each location within the city where cannabis or cannabis products are stored within the city for the purposes of distribution activities.

3. City cannabis delivery. A city cannabis delivery license (or a retailer [storefront or non-storefront] or microbusiness license conducting sales via delivery) shall comply with all state regulations on cannabis delivery and shall be subject to the following conditions:
   a. Maintain at all times all licenses and permits as required by the State of California, and provide immediate notification to the Chief of Police if any state license or permit is suspended or revoked.
   b. Any person who delivers cannabis to a customer must have in possession a copy of the city cannabis delivery license, which shall be made available upon request to law enforcement.
   c. Delivery of the cannabis shall be directly to the private physical residence of the customer or secure exchange location at the Concord Police Department; deliveries to any other location are prohibited.
   d. No licensee shall transport nor cause to be transported cannabis in excess of the limits established by state law during the course of delivering cannabis.
(4) City cannabis testing laboratory license. A city cannabis testing laboratory license is subject to the following conditions:

a. Testing laboratory licensee shall employ at least one full-time quality control personnel.

b. Testing laboratory licensee shall operate and test all cannabis or cannabis products in accordance with state law.

c. All testing devices used by testing laboratory licensee must be Underwriters Laboratories (UL) listed or otherwise approved by the city’s Building Official and Contra Costa County Fire Protection District.

d. Testing laboratory licensee must notify the Chief of Police within one business day after the receipt of any notice that its accreditation has been denied, suspended or revoked.

(5) City cannabis microbusiness license. A city cannabis microbusiness license is subject to the following conditions:

a. An applicant for a microbusiness license shall be subject to a competitive selection process, as established by the City Council, if a storefront retail component is proposed.

b. Submittal of a dimensioned floor plan showing location of separate components of microbusiness (type of cannabis uses) and their square footage.

c. If a non-storefront retailer component is proposed, the business shall comply with all conditions included in number (3) and (6), with the exception of 6.A.

d. If a storefront retailer component is proposed, the business shall comply with all conditions included in number (7).

e. If a manufacturer component is proposed, the business shall comply with all conditions included in number (1).

f. If a distributor component is proposed, the business shall comply with all conditions included in number (2).

g. If cultivation is proposed:

i. Outdoor cultivation shall be prohibited.

ii. Cultivation of cannabis shall be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

iii. All cultivation operations shall submit an odor control and mitigation plan with detailed information about the proposed ventilation system, including technical specifications indicating that the system is capable of preventing the release of cannabis odors from the cultivation operation.

iv. All cultivation operations shall submit a wastewater and water conservation plan.

(6) City cannabis non-storefront retailer license. Any city cannabis retailer non-storefront license, and any microbusiness with a non-storefront retailer component, is subject to the all of the following conditions:

a. An applicant for a non-storefront retailer license shall be selected by the City Council as part of a competitive selection process, as established by the City Council.

b. All cannabis products shall be loaded and unloaded inside a building.
c. The number, location, and hours of security guards shall be included in the application submittal.

d. A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.

e. Any other specific conditions as directed by the City Council as part of the competitive selection process.

(7) City cannabis storefront retailer license, microbusiness license with a storefront retailer component. Any city cannabis retailer storefront license, which includes and any a microbusiness license with a storefront retailer component, is subject to all of the following conditions:

a. An applicant for a storefront retailer license shall be subject to a competitive selection process, as established by the City Council.

b. A security plan must include procedures for verifying identification of customers both before entering the retail establishment and again before receiving cannabis or cannabis products.

c. The number, location, and hours of security guards shall be included in the application submittal.

d. A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.

e. On site security guard(s) shall monitor activity within 150 feet of building entrance to ensure no cannabis consumption is occurring in the vicinity of the business, including parking areas.

f. A neighborhood responsibility plan that demonstrates how the business will reduce adverse impacts to the surrounding neighborhood, including neighborhood outreach, methods for future communication, and dispute resolution, shall be submitted and approved by the city.

g. Cannabis and cannabis products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

h. The business owner shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, “Reasonable steps” shall include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.

i. The public entrance shall be ADA accessible.

j. A storefront retail licensee shall not conduct sales exclusively by delivery.

k. The business owner shall remove litter on and in front of the premises and, if necessary, on public sidewalks within one hundred feet (100') of the facility two (2) times, with a minimum of four (4) hour intervals, each operating day.

l. Any other specific conditions as directed by the City Council as part of the competitive selection process.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.100 Prohibited cannabis uses.
The following cannabis businesses, uses and activities are expressly prohibited in the city:

(1) Cannabis commercial activity. No person shall engage in, conduct, operate, manage, or carry on, or permit to be engaged in, conducted or carried on, any commercial cannabis use or activity, other than as expressly permitted by city licensing under this chapter.
(2) **Outdoor cultivation.** No person owning, renting, leasing, occupying or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor cultivation of cannabis for personal, commercial, or any other purposes.

(3) **Indoor personal cultivation.** No person owning, renting, leasing, occupying, or having charge or possession of any parcel, building, or structure shall cause or allow indoor cultivation of cannabis on such parcel, or within any building or structure thereon, except within a private residence or inside an accessory building or structure on a parcel developed with a private residence, within a fully enclosed, secure, locked space, and may possess up to six plants for noncommercial use/purposes consistent with state law.

a. No person owning, renting, leasing, occupying, or having charge or possession of any parcel, building, or structure shall cause or allow indoor cultivation of cannabis on such parcel or within any building or structure thereon to be visible by normal unaided vision from any public place including any street, sidewalk, or other place freely accessible by the public.

b. Indoor cannabis cultivation for any purpose other than personal use as specified above is expressly prohibited.

(4) **Industrial Hemp Cultivation.** No person owning, renting, leasing, occupying, or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor cultivation of industrial hemp for personal, commercial, or any other purpose.

(5) **Special events, festivals, and/or fairs.** The sale or consumption of cannabis is prohibited at special events, festivals, and/or fairs.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.110 Fees.
Applicants and city cannabis licensees shall pay all applicable fees as set forth in the City Council adopted resolution establishing fees and charges for municipal services. Applicants and city cannabis licensees shall also pay the amount as prescribed by the Department of Justice of the state of California for the processing of applicant’s fingerprints. Fees shall not be prorated or refunded in the event of a denial, suspension or revocation of the license.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.120 Taxation. (Reserved)
(Ord. No. 18-3, § 7 (Exh. B))

5.80.130 Penalties.
(a) As set forth in Section 1.05.200, any violation of this chapter or regulation promulgated under this chapter is a misdemeanor punishable pursuant to Section 1.05.230. In the discretion of the City Attorney, misdemeanor violations may be chargeable as infractions pursuant to Penal Code Section 19.6. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail.

(b) In addition to the penalties herein provided, any violation of this chapter or regulation promulgated under this chapter is hereby declared to be a public nuisance under Section 8.25.020, and subject to the remedies enumerated in Section 1.05.210 and/or 1.05.230.

(c) Any person who willfully or knowingly engages in a violation of this chapter or who owns, possesses, controls, or has charge of any parcel of real property in the city upon which a violation of this chapter is maintained and who has actual knowledge of such violation (or would have actual knowledge of such violation after reasonable inquiry) shall be subject to the penalties and remedies provided by this chapter.

(d) Any violation of this chapter shall constitute a separate offense for each day the violation occurs or persists and may be subject to an administrative citation and fine, as provided for in Section 8.25.070.
(e) These penalties and remedies are cumulative, and are in addition to any other penalties and remedies available to the city.

(Ord. No. 18-3, § 7 (Exh. B))

5.80.140 Severability – Miscellaneous provisions.
(a) Severability. If any section, subsection, clause, phrase, or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted the ordinance codified in this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

(b) Conflicts. In the event of any conflict with other provisions of the Concord Municipal Code or Development Code, the more restrictive standards shall apply.

(Ord. No. 18-3, § 7 (Exh. B))