Regular Meeting of the Concord City Council and Special Meeting of the Concord Planning Commission

Tuesday, April 2, 2019

Information for the public on participation at Council meetings can be found on the back of the Speaker Identification Card located near the Council Chamber entrance. Should you have any questions after consulting the Speaker Identification Card, please contact the City Clerk prior to the Council meeting.

AGENDIZED ITEMS – The public is entitled to address the City Council/Planning Commission on items appearing on the agenda before or during the City Council’s consideration of that item. Each speaker will be limited to approximately three minutes.

1. OPENING

   Roll Call

   Pledge to the Flag – Vice Mayor McGallian

2. PUBLIC COMMENT PERIOD
   This is a 15-minute Public Comment Period for items within the City Council’s/Planning Commission’s subject matter jurisdiction that are not on this agenda. Each speaker will be limited to approximately three minutes. State law prohibits the City Council/Planning Commission from acting at this meeting on any matter raised during the Public Comment Period.

3. ANNOUNCEMENTS
4. **CITY COUNCIL CONSENT CALENDAR**  
The public is entitled to address the City Council on items appearing on the Consent Calendar before or during the City Council's consideration of the Consent Calendar. Adoption of the Consent Calendar may be made by one motion of the City Council, provided that any Councilmember, individual or organization may request removal of an item from the Consent Calendar for separate consideration. If a request for removal of an item from the Consent Calendar has been received, the Mayor may defer action on the particular item and place the same on the regular agenda for consideration in any order s/he deems appropriate.

   a. **Considering** - adoption of a Resolution designating alternates to act on behalf of Councilmembers in a disaster or emergency. Recommended by the City Clerk.

5. **CITY COUNCIL/PLANNING COMMISSION JOINT STUDY SESSION**  
The public is entitled to address the City Council/Planning Commission on items appearing on the agenda before or during the City Council/Planning Commission's consideration of that item. Each speaker will be limited to approximately three minutes.

   a. **Study Session** – to receive an update on cannabis regulation and provide direction to staff on cannabis policy, including regulations and permitting with a focus on retail (storefront and non-storefront) and microbusinesses. **Report by Michael Cass, Principal Planner.**

   CEQA: Not a project under Public Resources Code 21065, Guidelines Sections 15060(c)(2), 15061(b)(3), or 15378.

6. **CORRESPONDENCE**  
Correspondence received at the City Council meeting will be listed here on the Annotated Agenda.

7. **REPORTS AND ANNOUNCEMENTS**
   a. Closed Session Announcements
   b. City Manager or Staff Reports
   c. Council Reports

8. **ADJOURNMENT**

   Next Meeting: Regular Meeting  
   Date: 4/9/2019 6:30:00 PM

**ADA NOTICE AND HEARING IMPAIRED PROVISIONS** - The Council Chamber is equipped with a T-Coil Hearing Loop. This system allows “T” coil reception of the audio proceedings. Please switch your hearing aid or cochlear device to the “T”, “T” Coil or telephone position. If you would like better audio reception, a loop receiver that picks up the audio loop is available from the City Clerk.

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those...
with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3031, at least five days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

The following is a list of regular **Council Committee** meeting dates. Most meetings are held in the Garden Conference Room, 1950 Parkside Drive, Concord. **NOTE: Meetings are subject to change or cancellation. For latest information and committee agendas please call 671-3158.**

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<thead>
<tr>
<th>Committee</th>
<th>Chair/Member</th>
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<tr>
<td>Policy Development &amp; Internal Operations</td>
<td>Obringer/McGallian</td>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Wednesday at 5:30 p.m.</td>
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<tr>
<td>Housing &amp; Economic Development</td>
<td>McGallian/Obringer</td>
<td>3&lt;sup&gt;rd&lt;/sup&gt; Monday at 5:30 p.m.</td>
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<tr>
<td>Infrastructure &amp; Franchise</td>
<td>Hoffmeister/Birsan</td>
<td>2&lt;sup&gt;nd&lt;/sup&gt; Monday at 6:00 p.m.</td>
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<tr>
<td>Recreation, Cultural Affairs &amp; Comm. Svc.</td>
<td>Birsan/Aliano</td>
<td>3&lt;sup&gt;rd&lt;/sup&gt; Wednesday at 5:30 p.m.</td>
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<tr>
<td>Youth &amp; Education</td>
<td>Aliano/Hoffmeister</td>
<td>3&lt;sup&gt;rd&lt;/sup&gt; Monday at 6:00 p.m.</td>
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Staff Report

Date: April 2, 2019
To: City Council
From: Valerie J. Barone, City Manager
Prepared by: Joelle Fockler, MMC, City Clerk
Joelle.fockler@cityofconcord.org
(925) 671-3390
Subject: Considering adoption of a Resolution designating alternates to act on behalf of Councilmembers in a disaster or emergency

Report in Brief
State law allows Councilmembers to designate alternates that can act on their behalf during a disaster or emergency situation when they are unavailable to attend a meeting. By adopting the attached resolution, Council will be identifying their alternates.

Recommended Action
Adopt the attached Resolution (Attachment 1) designating alternates to act on behalf of individual Councilmembers in a disaster or emergency situation.

Background
As stated in Title 2, Division 1, Chapter 7, Article 15, Sections 8635-8644 of the California Government Code (Attachment 2,) the City Council may designate alternates to act on member’s behalf in a disaster or emergency if the Councilmember is unavailable to attend meetings or otherwise perform duties.

Analysis
To preserve the functioning of local government in the case of a disaster, the California Government Code provides for appointment of standby officers. Adoption of this resolution designates three standby officers for each member of the City Council. The standby officers are designated in order of succession, as outlined in the Government Code. The standby officer performs the duties of the elected official for whom he/she is appointed when there exists a declared state of war emergency, or a State or local emergency and the elected official is not available to meet as a member of the governing body. Per Government Code Section 8636, “unavailable” means that an
officer is either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform their duties.

Public Contact
The City Council Agenda was posted. All designees named in this resolution have received a copy of the agenda and Report to Council and will receive a copy of the executed Resolution.

Attachments
1. Resolution No. 19-XX Designating Alternates
2. California Government Code Sections 8635-8644
BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA

A Resolution Designating Alternates for Members of the City Council to Act on their Behalf in Case of a Disaster or Emergency

Resolution No. 19-XX

WHEREAS, the City Council has the authority to designate alternates to serve as standby officers according to Title 2, Chapter 7, Article 15, Section 8638 of the State Government Code; and

WHEREAS, Councilmembers wish to update or establish their designation; and

WHEREAS, the designation of standby officers is prudent to provide for the continuation of local government functions in the case of a disaster; and

WHEREAS, adoption of Resolution No. 19-XX supersedes Resolution No. 17-20 which earlier provided for designation of standby officers.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES RESOLVE AS FOLLOWS:

Section 1. The alternates designated to act for City Councilmembers in these circumstances are as follows, in the order of priority:

Carlyn S. Obringer
Justin Gerdas
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justingerdes@gmail.com

Cathy McRoberts
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Concord, CA 94521
(925) 872-3838
cmc_1974@hotmail.com

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C: (925) 876-0327
johnmercuiro@astound.net
Timothy A. McGallian
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Kandi Lancaster
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Jason Laub
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Concord, CA 94518
(925) 998-6060
jmlaub@gmail.com

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Section 2. This Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED by the City Council of the City of Concord on April 2, 2019, by the following vote:

AYES: Councilmembers -

NOES: Councilmembers -

ABSTAIN: Councilmembers -

ABSENT: Councilmembers -

I HEREBY CERTIFY that the foregoing Resolution No. 19-XX duly and regularly adopted at a regular meeting of the City Council of the City of Concord on April 2, 2019.

Joelle Fockler, MMC
City Clerk

APPROVED AS TO FORM:

Susanne Meyer Brown
City Attorney
GOVERNMENT CODE - GOV
TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]
( Title 2 enacted by Stats. 1943, Ch. 134. )
DIVISION 1. GENERAL [8000 - 8899.24]
( Division 1 enacted by Stats. 1943, Ch. 134. )
CHAPTER 7. California Emergency Services Act [8550 - 8668]
( Chapter 7 added by Stats. 1970, Ch. 1454. )

ARTICLE 15. Preservation of Local Government [8635 - 8644]
( Article 15 added by Stats. 1970, Ch. 1454. )

8635. The Legislature recognizes that if this state or nation were attacked by an enemy of the United States, many areas in California might be subjected to the effects of an enemy attack and some or all of these areas could be severely damaged. During such attacks and in the reconstruction period following such attacks, law and order must be preserved and so far as possible government services must be continued or restored. This can best be done by civil government. To help to preserve law and order and to continue or restore local services, it is essential that the local units of government continue to function.

In enacting this article the Legislature finds and declares that the preservation of local government in the event of enemy attack or in the event of a state of emergency or a local emergency is a matter of statewide concern. The interdependence of political subdivisions requires that, for their mutual preservation and for the protection of all the citizens of the State of California, all political subdivisions have the power to take the minimum precautions set forth in this article. The purpose of this article is to furnish a means by which the continued functioning of political subdivisions will be assured. Should any part of this article be in conflict with or inconsistent with any other part of this chapter, the provisions of this article shall control.
Nothing in this article shall prevent a city or county existing under a charter from amending said charter to provide for the preservation and continuation of its government in the event of a state of war emergency.
(Amended by Stats. 1974, Ch. 595.)

8636. As used in this article, “unavailable” means that an officer is either killed, missing, or so seriously injured as to be unable to attend meetings and otherwise perform his duties. Any question as to whether a particular officer is unavailable shall be settled by the governing body of the political subdivision or any remaining available members of said body (including standby officers who are serving on such governing body).
(Added by Stats. 1970, Ch. 1454.)
8637. Each political subdivision may provide for the succession of officers who head departments having duties in the maintenance of law and order or in the furnishing of public services relating to health and safety.  
(Added by Stats. 1970, Ch. 1454.)

8638. To provide for the continuance of the legislative and executive departments of the political subdivision during a state of war emergency or a state of emergency or a local emergency the governing body thereof shall have the power to appoint the following standby officers:

(a) Three for each member of the governing body.
(b) Three for the chief executive, if he is not a member of the governing body.

In case a standby office becomes vacant because of removal, death, resignation, or other cause, the governing body shall have the power to appoint another person to fill said office.

Standby officers shall be designated Nos. 1, 2, and 3 as the case may be.  
(Amended by Stats. 1974, Ch. 595.)

8639. The qualifications of each standby officer should be carefully investigated, and the governing body may request the Director of Emergency Services to aid in the investigation of any prospective appointee. No examination or investigation shall be made without the consent of the prospective appointee.

Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship. Standby officers may be residents or officers of a political subdivision other than that to which they are appointed as standby officers.  
(Amended by Stats. 2013, Ch. 352, Sec. 176. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

8640. Each standby officer shall take the oath of office required for the officer occupying the office for which he stands by. Persons appointed as standby officers shall serve in their posts as standby officers at the pleasure of the governing body appointing them and may be removed and replaced at any time with or without cause.  
(Added by Stats. 1970, Ch. 1454.)

8641. Each standby officer shall have the following duties:

(a) To inform himself or herself of the duties of the office for which the officer stands by. Officers and employees of the political subdivision shall assist the standby officer and each political subdivision shall provide each standby officer with a copy of this article.
(b) To keep informed of the business and affairs of the political subdivision to the extent necessary to enable the standby officer to fill his or her post competently. For this purpose the political subdivision may arrange information meetings and require attendance.

(c) To immediately report himself or herself ready for duty in the event of a state of war emergency or in the event of a state of emergency or a local emergency at the place and in the method previously designated by the political subdivision.

(d) To fill the post for which he or she has been appointed when the regular officer is unavailable during a state of war emergency, a state of emergency or a local emergency. Standby officers Nos. 2 and 3 shall substitute in succession for standby officer No. 1 in the same way that standby officer No. 1 is substituted in place of the regular officer. The standby officer shall serve until the regular officer becomes available or until the election or appointment of a new regular officer.

(Amended by Stats. 1992, Ch. 1020, Sec. 1.7. Effective January 1, 1993.)

8642. Whenever a state of war emergency a state of emergency or a local emergency exists the governing body of the political subdivision shall meet as soon as possible. The place of meeting need not be within the political subdivision. The meeting may be called by the chief executive of the political subdivision or by a majority of the members of the governing body. Should there be only one member of the governing body, he may call and hold said meeting and perform acts necessary to reconstitute the governing body.

(Amended by Stats. 1974, Ch. 595.)

8643. During a state of war emergency a state of emergency or a local emergency the governing body shall:

(a) Ascertain the damage to the political subdivision and its personnel and property. For this purpose it shall have the power to issue subpoenas to compel the attendance of witnesses and the production of records.

(b) Proceed to reconstitute itself by filling vacancies until there are sufficient officers to form the largest quorum required by the law applicable to that political subdivision. Should only one member of the governing body or only one standby officer be available, that one shall have power to reconstitute the governing body.

(c) Proceed to reconstitute the political subdivision by appointment of qualified persons to fill vacancies.

(d) Proceed to perform its functions in the preservation of law and order and in the furnishing of local services.

(Amended by Stats. 1974, Ch. 595.)
8644. Should all members of the governing body, including all standby members, be unavailable, temporary officers shall be appointed to serve until a regular member or a standby member becomes available or until the election or appointment of a new regular or standby member. Temporary officers shall be appointed as follows:

(a) By the chairman of the board of supervisors of the county in which the political subdivision is located, and if he is unavailable,

(b) By the chairman of the board of supervisors of any other county within 150 miles of the political subdivision, beginning with the nearest and most populated county and going to the farthest and least populated, and if he is unavailable,

(c) By the mayor of any city within 150 miles of the political subdivision, beginning with the nearest and most populated city and going to the farthest and least populated.

(Added by Stats. 1970, Ch. 1454.)
Staff Report

Date: April 2, 2019

To: City Council
    Planning Commission

From: Valerie J. Barone, City Manager

Reviewed by: Andrea Ouse, Director of Community and Economic Development

Prepared by: Michael P. Cass, Principal Planner
              Michael.Cass@cityofconcord.org
              (925) 671--3332

Subject: Joint Planning Commission/City Council study session to receive an update on cannabis regulation and provide direction to staff on cannabis policy, including regulations and permitting with a focus on retail (storefront and non-storefront) and microbusinesses.

CEQA: Not a project under Public Resources Code 21065, Guidelines Sections 15060(c)(2), 15061(b)(3), or 15378.

Report in Brief
On October 24, 2017, the City Council directed staff to develop regulations for; medicinal cannabis non-storefront retail, manufacturing, testing laboratories, distribution, a limited number of storefront retail, and microbusinesses.

On June 12, 2018, the City Council adopted Ordinance No. 18-3 to amend the Municipal Code and Development Code to establish an overlay district, associated development standards, and a licensing framework for medicinal-only cannabis manufacturing, testing laboratories, and distribution.

This study session is to provide an opportunity for the Planning Commission and City Council to receive an update on the already adopted cannabis regulations and provide direction to staff on potential cannabis retail (storefront and non-storefront) and microbusiness regulations and permitting.
Recommended Action

1. Receive update on cannabis regulations.

2. Provide direction to staff as follows:
   a. Council: Affirm or modify the direction to explore medicinal only (not adult-use) cannabis storefront and non-storefront retail uses and microbusinesses in Concord.
   b. Council: Affirm or modify the direction to explore medicinal only (not adult-use) cannabis microbusinesses in Concord.
   c. Council & Planning Commission: Provide initial feedback to staff on distance buffers from sensitive uses to explore with the community for storefront and non-storefront retail and microbusiness cannabis uses.
   d. Council: Provide direction on a preference for first-come, first-served or competitive evaluation process when selecting potential applicants for cannabis retailer licenses.
   e. Council & Planning Commission: Share any questions that the Commission or Council believe important to have answered as part of developing retail and microbusiness regulations.
   f. Council: Provide direction if the Municipal Code should be amended to require a Development Agreement to generate revenue, until a cannabis tax is in place.

Background

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 medicinal cannabis.

On November 8, 2016, the Control, Regulate, & Tax Adult Use of Marijuana Act ("AUMA") was approved by California voters with the passage of Proposition 64. Effective November 9, 2016, the AUMA legalizes the use and cultivation for personal use of adult use cannabis for persons 21 years or older. The AUMA also permits local jurisdictions to regulate and/or ban adult use cannabis related to the cultivation, distribution and delivery, transportation, manufacturing, testing laboratories, dispensaries, and microbusiness facilities.

In December 2017, the Bureau of Cannabis Control ("BCC") adopted emergency

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In order to be consistent with the terminology used by the state’s Bureau of Cannabis Control, “marijuana” is referred to as “cannabis”, “medical” is referred to as “medicinal”, and “recreational” is referred to as “adult-use” for purposes of this report.
cannabis regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult Use Cannabis Regulation & Safety Act (“MAUCRSA”), which reconciled the differences between MCRSA and AUMA, and created a comprehensive state licensing and regulatory framework for the cultivation, manufacturing, testing laboratories, distribution, retail (storefront and non-storefront), and microbusinesses of both adult and medicinal use of cannabis. The BCC readopted these emergency regulations in June 2018, which remained in effect while the Bureau went through the formal rulemaking process to create non-emergency regulations.

The BCC, in developing its framework for regulating cannabis uses on a state-level, created a deadline of January 2, 2018 in which all local jurisdictions were required to adopt their own regulations for cannabis uses. Accordingly, in order to avoid the situation where state-licensed uses could be grandfathered into the City, on November 14, 2017, the City Council adopted an ordinance, which amended 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.

On January 16, 2019, the Office of Administrative Law officially approved new State regulations for cannabis businesses across the supply chain. The new regulations went into effect immediately, replacing the emergency regulations. Refer to the BCC’s “Summary of Proposed Regulatory Changes” (Attachment 1). Notable changes include the following:

- Removal of distinction between medicinal or adult-use in the State’s definition of commercial cannabis activity. However, a “M-license” for medicinal use only will still be used to designate medicinal use designated retailers and microbusinesses;
- Legalizing statewide delivery of adult-use and adult-use cannabis regardless of jurisdiction;
- New broader definition of “owner” to include anyone holding at least a 20% share in the profits of a business;
- New rules that allow multiple licenses to operate at the same premises and allowed use of shared common areas, such as restrooms, breakrooms, hallways, or building entrances;
- Significant changes to packaging and labeling requirements, including the elimination of child-resistant packaging but still requiring tamper-evident packaging for cannabis products for manufacturers, but requiring retail exit packaging to be resealable, child-resistant, and opaque;
• Providing more restrictions on cannabis giveaways and stricter on licensee advertising attractive to children;
• Requiring “limited access area” security to all licensees, not just retailers;
• For rejections and returns, licensees now have to reject shipments in their entirety.

Attachment 2 includes Fact Sheets for cannabis storefront and non-storefront retail, prepared by the BCC.

History of Existing Concord Regulations
On September 27, 2005, the City Council adopted Ordinance No. 05-9, which amended the Concord Municipal Code by prohibiting the establishment of medicinal cannabis retailers, due to the inconsistencies between Federal and State law and to protect public health, safety, and general welfare.

On April 9, 2013, the City Council adopted Ordinance No. 13-1, which amended the Concord Development Code by prohibiting outdoor cultivation of medicinal cannabis. The reasoning behind the prohibition included: 1) providing for the public health, safety, and welfare, 2) limiting odor caused by cannabis from impacting adjacent properties, and 3) preventing the attractive nuisance created by cannabis cultivation, which creates the risk of burglary, trespass, robbery, and armed robbery, requiring the expenditure of scarce police and public safety resources. The regulations limited medicinal cannabis cultivation to enclosed, occupied dwellings, where it is not visible from the public. The installation of grow lights, fans, ventilation devices, or other electrical and mechanical equipment was required to comply with all applicable building and fire code requirements and obtain any necessary permits.

On January 10, 2017, the City Council adopted Ordinance No. 16-9, which prohibited outdoor cannabis cultivation (medicinal and non-medicinal) and reinforced the existing policy. By doing so, Ordinance No. 16-9 prohibits the outdoor growing of both medicinal and non-medicinal cannabis. The Council also directed the Council Committee on Policy Development & Internal Operations (“PD&IO”) to comprehensively study potential regulations for medicinal and non-medicinal cannabis uses.

On July 25, 2017, the City Council adopted Ordinance No. 17-10, which amended the Concord Municipal Code to allow delivery of medicinal cannabis from licensed dispensaries located outside the City to qualified patients.

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. At that time, the City Council also instructed staff to bring back for consideration regulations for certain cannabis uses at a later time.
On June 12, 2018, the City Council adopted Ordinance No. 18-3 to amend the Municipal Code and Development Code to establish an overlay district, associated development standards, and a licensing framework for medicinal-only cannabis manufacturing, testing laboratories, and distribution.

Analysis
On October 24, 2017, the City Council provided direction to staff to create a work plan for developing additional regulations related to cannabis uses. At that time, the Council prioritized placing a tax measure on the November 2018 ballot and developing draft regulations for medicinal cannabis non-storefront retail\(^2\), manufacturing, testing laboratories, distribution, a limited number of storefront retail, and microbusinesses for their consideration. City staff divided these tasks into the following three efforts:

- **Testing and Manufacturing Regulations:** On June 12, 2018, the City Council adopted Ordinance No. 18-3 to amend the Municipal Code and Development Code to establish an overlay district, associated development standards, and a licensing framework for cannabis manufacturing, testing laboratories, and distribution. The City conditionally approved two medicinal cannabis manufacturers and associated distribution facilities, which are located in the two northern-most Commercial Cannabis Overlay Districts. One cannabis manufacturer has building permits for their remodel. Both are expected to open in Spring/Summer 2019. Additionally, one applicant has filed an application for a medicinal and adult-use testing laboratory; the application is currently incomplete.

- **Potential Store-Front, Non-Storefront, and Microbusiness\(^3\) Land Use Regulations:** The Council directed staff to work with the community to explore medicinal-only retail cannabis uses in Concord: specifically, storefront, non-storefront, and microbusiness regulations and to bring recommendations before the Planning Commission and City Council for consideration.

Prior to proceeding with the development of potential regulations, staff is requesting direction on the topics outlined below:

- Council: Affirm or modify the direction to explore medicinal only (not adult-use) cannabis storefront and non-storefront retail uses and microbusinesses in Concord.

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\(^2\) Non-storefront retail is a cannabis retail business that sells cannabis goods to customers exclusively through delivery. A non-storefront retailer must have a licensed premises to store the cannabis goods for delivery. The premises of a non-storefront retailer shall not be open to the public.

\(^3\) A microbusiness license allows a licensee to engage in the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, manufacturer, and retailer, as specified in their application. In order to hold a microbusiness license, a licensee must engage in at least three of the four listed commercial cannabis activities.
o Council: Affirm or modify the direction to explore medicinal only (not adult-use) cannabis microbusinesses in Concord.

o Council & Planning Commission: Provide initial feedback to staff on distance buffers from sensitive uses to explore with the community for storefront and non-storefront retail and microbusiness cannabis uses.

o Council: Provide direction on preference for a first-come, first-served or competitive evaluation process when selecting potential applicants for cannabis retailer licenses.

o Council & Planning Commission: Share any questions that the Commission or Council believe important to have answered as part of developing retail and microbusiness regulations.

If directed, staff’s anticipated schedule for developing regulations for retail cannabis uses and microbusinesses is as follows:

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<tr>
<th>Tentative Cannabis Schedule: Retail &amp; Microbusiness</th>
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<tr>
<td><strong>Date</strong></td>
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<tr>
<td>June 2019</td>
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<td>August 2019</td>
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<td>October / November 2019</td>
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<td>December 2019 / January 2020</td>
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- **Taxation:** Due to competing initiatives and limited anticipated revenue, the City did not place a cannabis tax before the voters in November 2018. Therefore, the earliest the City could reconsider placing a cannabis tax before the voters is November 2020. Placement of a tax on the ballot requires the support of at least four of the five councilmembers.

The City’s consultants and the Director of Finance previously shared that the level of revenue likely to result from a tax measure is expected to be minimal due to the City’s limits on the number and type of cannabis businesses. The City’s consultants believe medicinal-only operations are less attractive investments than medicinal and adult-use manufacturing, so may result in little business interest.

Alternative to a tax measure, the City could amend the Concord Municipal Code to require cannabis businesses to enter into a Development Agreement where terms including financial arrangements between the City and the cannabis business would be negotiated on a case-by-case basis. The Development Agreement could be a requirement until such time that the City approves a
cannabis tax. Development Agreements are subject to review by the Planning Commission and approval by the City Council during public meetings.

Cannabis Survey Results
The City contracted with Godbe Research to conduct a statistically valid survey related to various cannabis uses to better understand the community’s support or opposition to the types of uses and where they may be permitted. The survey results will assist the City Council and staff in developing policies, based on feedback that is representative of Concord’s demographics. The survey was conducted in late August 2017. Notable survey results include the following:

- 68.7% support for medicinal cannabis storefront retail (referred to as dispensaries);
- 49.1% total support for adult-use cannabis storefront retail;
- 64.9% total support for medicinal cannabis storefront retail near the Police Department; 62.8% total support in industrial areas;
- 52.6% total support for medicinal cannabis storefront retail near the Police Department; 46.8% total support in industrial areas; and
- 50.8% concerned with increased crime associated with storefront and non-storefront (delivery) cannabis retail.

Potential Buffer Areas from Sensitive Uses & Permitted Areas
The State’s recommended buffer area is 600 feet from sensitive uses, including public or private schools providing instruction from kindergarten through Grade 12, large family day care centers, home or child day care center, preschool, nursery school, or youth community centers, which are in existence at the time the initial license is issued. The City used these recommended buffers when establishing the Commercial Cannabis Overlay District for cannabis manufacturers, testing laboratories, and distributors (Attachment 3). Additionally, the City’s regulations do not allow a new “sensitive use” to establish within 600-feet of the Commercial Cannabis Overlay District.

The City could choose to be more or less restrictive when creating buffers to influence the potential locations for each commercial cannabis use. Examples of other sensitive uses could include (but are not limited to) parks, bars, night clubs, breweries and distilleries, residential zoning districts, drug treatment centers, firearms stores, pawn shops, tobacco or smoke shops, or other restricted retail businesses (dollar stores, firearm stores, pawn shops, smoking and related paraphernalia sales, tobacco or smoke shops, or used specialty goods stores). Staff seeks feedback from the Planning Commission and City Council on which sensitive uses to include when developing a proposed Commercial Cannabis Overlay District for cannabis retail and microbusinesses.
Additionally, staff seeks feedback from the Planning Commission and the City Council on the general areas, if any, the City wants to permit cannabis retail and microbusinesses. Potential locations could include either industrial areas as done for manufacturing, testing, laboratories, and distribution, properties near the Police Department, or alternative areas.

Potential City Cannabis License Framework and Associated Land Use Approvals
For cannabis manufacturing, testing laboratories, and distribution, the City established a discretionary regulatory license framework to regulate commercial cannabis businesses, in addition to the regulation of cannabis use through land use regulatory measures. The approval framework anticipates that each cannabis business would obtain all of the following approvals:

1. A “City Cannabis License” issued by the Police Department;
2. A land use approval (use permit, minor use permit, administrative permit, or zoning clearance) from the Planning Division;
3. A State cannabis license; and,
4. A business license.

Each approval is specific to the location where the cannabis business is proposed to operate and identifies the type of cannabis activity. City Cannabis Licenses are evaluated on a first-come, first-served basis.

For cannabis retail and microbusinesses, the City could use the same first-come, first-served evaluation process. Alternatively, the City could develop a competitive evaluation process with specified evaluation criteria. If the City Council prefers specified evaluation criteria, staff would develop a draft Request for Proposal and return to the City Council for review and approval prior to issuance.

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 study session does not constitute a “project” within the meaning of Public Resources Code Section 21065, and CEQA Guidelines Sections 15060(c)(2), 15061(b)(3) and 15378 because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and because it has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment.
Public Contact
All appropriate public notices of this agenda item have been posted. Staff also e-notified interested parties, and have posted the notification on the City’s cannabis webpage: http://cityofconcord.org/marijuana. Staff also met with representatives from the cannabis industry, residents, and other local jurisdictions to obtain input.

Attachments
1. BCC’s Summary of Proposed Regulatory Changes
2. Bureau of Cannabis Control Fact Sheets
   a. Cannabis Retailer (Storefront)
   b. Cannabis Retailer (Non-Storefront)
3. Commercial Cannabis Overlay District
4. Public Comments, as of January 1, 2019
Article 1. Division Definitions
- Adds definitions for cannabis accessories, kief, and preroll.

Article 2. Applications
- Clarifies that temporary licenses will not be issued or extended after Dec. 31, 2018. Temporary licenses with an expiration date after Dec. 31, 2018, are valid until the expiration date.
- Requires that any administrative orders or civil judgments for labor standard violations be included on the application.
- Requires the signature page of a labor peace agreement be provided to the bureau.
- Requires use of specific forms to submit operating procedures for transportation, inventory, nonlaboratory quality control procedures, security procedures, cannabis waste management procedures, and delivery procedures.
- Allows for electronic signatures on all documents submitted to the bureau, except for notarized statements.
- Clarifies that an environmental document submitted with the license application must evaluate whether the applicant’s proposed commercial cannabis activity has the potential to generate significant adverse environmental impacts.
- Specifies the information that applicants must submit if a previously certified or adopted environmental document is not available or does not exist, and if the bureau does not determine that the project is exempt from CEQA.

Article 3. Licensing
- Requires submission of documentation demonstrating the maximum dollar value of operation for the current licensed period with a renewal application.
- Provides that if a licensee must close the premises for more than 30 days to make renovations or repairs, the bureau may allow the licensee to retain the license.
- Clarifies what business modifications the bureau must be apprised of and the procedures for doing so. Business modifications include: standard operating procedures, labor peace agreements, ownership, financial interest, license designations, microbusiness activities, and location of licensed premises.
- Clarifies that each licensed premises shall have a distinct street address and/or suite number.
- Prohibits dispersing cannabis in the air throughout the premises or throughout a portion of the premises by an oil diffuser or any other vaporizing device unless such activities are conducted in accordance with Business and Professions Code section 26200 (g).
- Removes California Code of Regulations section 5029 related to the transition period that ended June 30, 2018.
- Requires that inventory stored on the licensed premises be in a secured limited-access area.
- Requires licensees to notify the bureau, in writing, of any administrative order or civil judgment for violations of labor standards within 48 hours.
- Requires records to be legible and protected from debris, moisture, contamination, hazardous waste, fire, and theft.
• Clarifies that the bureau may inspect a licensee’s records without prior notice and the licensee must be able to produce records immediately upon request at the licensed premises.

• Provides additional clarification regarding what constitutes a disaster.

**Article 4. Posting and Advertising**
- Prohibits the use of certain advertising techniques that may be attractive to minors, including the use of objects, such as toys, inflatables, movie characters, cartoon characters, or any other display, depiction, or image that will likely be appealing to minors.
- Prohibits advertising free cannabis goods or giveaways of any type of product.
- Requires all outdoor advertising to be affixed to a building or permanent structure and comply with the Outdoor Advertising Act.
- Defines what constitutes “reliable up-to-date audience composition data” and requires providing such data to the bureau, upon request.
- Clarifies that any action, omission, or failure of an agent, representative, or contractor retained by the licensee shall be deemed the act, omission, or failure of the licensee.

**Article 5. Security Measures**
- Extends limited-access area rules to all licensees, not just retailers.

**Article 7. Returns and Destruction**
- Requires a licensee to accept or reject shipments of cannabis goods in whole, except for cannabis goods not accurately reflected on the sales invoice or receipt.
- Prohibits the transfer, donation, sale, and giving away of cannabis waste.

**CHAPTER 2. DISTRIBUTORS**
- Clarifies that a distributor shall only distribute and store cannabis goods, cannabis accessories, and licensees’ branded merchandise or promotional materials and may not store live plants.
- Clarifies that licensed distributors are allowed to package prerolls.
- Requires distributors that relabel cannabis goods with the accurate amount of cannabinoids or terpenoids to provide the Certificate of Analysis to the manufacturer of the cannabis product.
- Adds that the net weight on any package of dried flower shall not be considered inaccurate if the actual weight is within 2.5 percent of the labeled weight.
- Changes amount of time video recordings documenting sampling shall be kept from 180 days to 90 days.
- Clarifies that once a batch passes testing, it may be transported to one or more licensed retailers, licensed distributors, or licensed microbusinesses.
- Clarifies that licensed distributors may conduct quality-assurance reviews of cannabis goods received from another distributor who has already completed the state-mandated testing.
- Requires that licensed distributors have a completed sales invoice or receipt before transporting cannabis goods, only transport cannabis goods identified on the invoice or receipt, and do not alter the invoice or receipt once transport begins.

**CHAPTER 3. RETAILERS**
- Requires exit packaging to be resealable, child-resistant, and opaque.
- Allows a retailer who holds multiple retailer licenses to transfer cannabis goods from one licensed retail premises to another. A distributor must conduct the transport of the cannabis goods and the transfer must be recorded in track and trace.
• Adds a provision that allows retailers to deliver to any jurisdiction within California.

CHAPTER 4. MICROBUSINESS
• Clarifies that license types created by the California Department of Food and Agriculture and the California Department of Public Health (CDPH) in regulation are not considered qualifying commercial cannabis activities for the purposes of obtaining a microbusiness license.
• Clarifies applicants for a microbusiness must submit certain information tailored to the commercial cannabis activities that they wish to engage in.
• Reiterates that all activities performed by a licensee are to occur on the same licensed premises.
• Clarifies that microbusiness licensees are responsible for adhering to the rules and regulations applicable to the license type suitable for the activities of the licensee.
• Clarifies that a suspension or revocation of a microbusiness licensee shall affect all commercial cannabis activities allowed pursuant to that license.
• Provides that the bureau may not issue new microbusiness licenses that include cultivation activities or increase the total number of plant identifiers within a watershed or other area, if the State Water Resources Control Board or the Department of Fish and Wildlife finds, based on substantial evidence, that a microbusiness’ cannabis cultivation would cause significant adverse impacts on the environment in a watershed or other geographic area.

CHAPTER 5. CANNABIS EVENTS
• Requires applicants to provide a more detailed premises diagram indicating where each licensed retailer will be located, where cannabis consumption will occur, and where cannabis sales will occur. Limits licensed retailers to selling cannabis goods in their designated area.

CHAPTER 6. TESTING LABORATORIES
• Provides rules for transportation of samples from the distributor to the testing laboratories.
• Sets a minimum standard of sample for each test method.
• Excludes tinctures that meet the definition established by the CDPH from meeting ethanol action level.
• Reduces action levels for Category II residual solvents.
• Establishes a greater variance and tiered approach for microdosed edible products’ label claim.
• Adds minimum value of 5 percent for cannabinoid and terpenoid label claim verification.
• Provides for Certificate of Analysis to include the following information: picture of the cannabis goods, overall pass/fail for batch, label claim verification, and measured density.
• Modifies the data package requirement to require a data package for every sample instead of every batch.
• Clarifies that a failed batch may only be retested after it has undergone remediation.
• Adds a requirement to include corrective action procedures in the laboratory quality assurance manual.
• Modifies requirements for laboratory quality control samples and addresses appropriate corrective actions for problems that arise with samples.
• Expands the list of materials that must be included in the data package.
• Removes the provision that proficiency testing is required only after receiving ISO/IEC 17025 accreditation status and requires proficiency testing at least every six months regardless of ISO/EOC 17025 status.
• Allows laboratory management to have a bachelor’s degree in any field.
CHAPTER 7. ENFORCEMENT

- Adds a provision to allow the bureau to issue an emergency decision to avoid immediate danger to public health, safety, or welfare.
- Provides a process for providing notice and an opportunity to be heard to a licensee subject to an emergency decision.

CHAPTER 8. OTHER PROVISIONS

- Provides a process for the bureau to award research funding pursuant to Revenue and Taxation Code section 34019 (b) to public universities.
RETAILER (STOREFRONT): Sells cannabis goods to customers at its premises or by delivery. A retailer must have a licensed physical location (premises), including an address where commercial cannabis activities are conducted.

RETAILER (STOREFRONT) REQUIREMENTS

• Hours of operation
  - A licensed retailer may only engage in sales and deliveries between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.

• Access to the licensed premises
  - Retail area—all customers must provide a valid proof of identification.
    ° Only persons 21 years of age or older may access adult-use retailers.
    ° Persons 18 years of age or older may access medicinal retailers with a valid physician’s recommendation.
    ° Retail employees must verify the age and valid proof of identification of all customers before granting access.
  - Limited access areas—all persons must be at least 21 years of age and have a business reason for entering the limited access area; non-employees with authorized access must be escorted, and an access log must be maintained.
  - Retail premises must be secured while not open for business.

• Cannabis goods for sale
  - A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees’ branded merchandise or promotional materials.
  - A licensed retailer may only receive cannabis goods for sale from a licensed distributor.
  - All cannabis goods must comply with all packaging and labeling requirements.
  - A licensed retailer may not sell cannabis goods that are expired.

• Delivery
  - All delivery customers must provide a valid proof of identification.
    ° Persons 21 years of age or older may purchase adult-use cannabis goods.
    ° Persons 18 years of age or older may purchase medicinal cannabis goods with a valid physician’s recommendation.
    ° Delivery employees must verify the age by inspecting a valid form of identification of all delivery customers, in person, before they complete delivery of the cannabis goods.
  - Delivery must be made to a physical address in any jurisdiction within California that is not on publicly owned land, a school, a day care, or a youth center.
  - During delivery, the employee must carry a copy of the retailer’s license, the employee’s government-issued identification, and an identification badge provided by the licensed retailer.
  - The delivery employee shall not carry cannabis goods valued in excess of $5,000 at any time, with no more than $3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
  - A delivery request receipt must be prepared for each delivery of cannabis goods and contain all the items listed in section 5420 of the Bureau of Cannabis Control’s regulations.
  - Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third party courier
service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.

- Delivery must be made using an enclosed motor vehicle equipped with a GPS device and secure storage for cannabis goods.
- A vehicle used by a licensed retailer for delivery purposes is not required to be owned by the licensee.

- **Customer returns**
  - A licensed retailer may accept customer returns but may not resell the returned cannabis goods. The returned cannabis goods may be destroyed or, if defective, returned to the distributor from which they were obtained.

- **Cannabis goods packaging, labeling, and exit packaging**
  - A licensed retailer may not accept, possess, or sell cannabis goods that are not packaged for final sale. A retailer may not package or label cannabis goods.
  - All cannabis goods must leave the licensed premises in an opaque exit package.
  - Through December 31, 2019, all cannabis goods must either be in a child-resistant package or in a child-resistant exit package. All cannabis goods packaging shall be tamper-evident; and resellable if it contains more than one serving.
  - Beginning January 1, 2020, a package containing cannabis goods shall be resealable, tamper-evident, and child resistant.

- Immature cannabis plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

- **Shipments and inventory**
  - Licensed retailers can only receive shipments between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.
  - Licensed retailers must be able to account for all inventory of cannabis goods and provide the Bureau with inventory records upon request.

- **Retailer to retailer transfer**
  - Cannabis goods may be transported by a licensed distributor from one retail location to another retail location if the retail licenses for both locations are held by the same licensee.

- **Records**
  - A licensed retailer must maintain financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all sales for seven years. All records must be made available to the Bureau upon request.
RETAILER (NON-STOREFRONT): Sells cannabis goods to customers exclusively through delivery. A retailer non-storefront must have a licensed premises to store the cannabis goods for delivery. The premises of a non-storefront retailer shall not be open to the public.

RETAILER (NON-STOREFRONT) REQUIREMENTS

• Hours of operation
  - A licensed retailer may only engage in sales and deliveries between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.

• Cannabis goods for sale
  - A licensed retailer may only sell cannabis goods, cannabis accessories, and licensees’ branded merchandise or promotional materials.
  - A licensed retailer may only receive cannabis goods for sale from a licensed distributor.
  - All cannabis goods must comply with all packaging and labeling requirements.
  - A licensed retailer may not sell cannabis goods that are expired.

• Delivery
  - All delivery customers must provide a valid proof of identification.
    ○ Persons 21 years of age or older may purchase adult-use cannabis goods.
    ○ Persons 18 years of age or older may purchase medicinal cannabis goods with a valid physician’s recommendation.
    ○ Delivery employees must verify the age by inspecting a valid form of identification of all delivery customers, in person, before they complete delivery of the cannabis goods.
  - Delivery must be made to a physical address in any jurisdiction within California that is not on publicly owned land, a school, a day care, or a youth center.
  - During delivery, the employee must carry a copy of the retailer’s license, the employee’s government-issued identification, and an identification badge provided by the licensed retailer.
  - The delivery employee shall not carry cannabis goods valued in excess of $5,000 at any time, with no more than $3,000 of cannabis goods that are not already part of a customer order that was processed prior to leaving the premises.
  - A delivery request receipt must be prepared for each delivery of cannabis goods and contain all the items listed in section 5420 of the Bureau’s regulations.
  - Delivery must be made in person by a direct employee of the licensed retailer. An independent contractor, third-party courier service, or an individual employed through a staffing agency would not be considered directly employed by the licensed retailer.
  - Delivery must be made using an enclosed motor vehicle equipped with a GPS device and secure storage for cannabis goods.
  - A vehicle used by a licensed retailer for delivery purposes is not required to be owned by the licensee.

• Customer returns
  - A licensed retailer may accept customer returns but may not resell the returned cannabis goods. The returned cannabis goods may be destroyed or, if defective, returned to the distributor from which they were obtained.
Cannabis goods packaging, labeling, and exit packaging
- A licensed retailer may not accept, possess, or sell cannabis goods that are not packaged for final sale. A retailer may not package or label cannabis goods.

- All cannabis goods sold must be in an opaque exit package before delivery to the customer.

- Through December 31, 2019, all cannabis goods must either be in a child-resistant package or in a child-resistant exit package. All cannabis goods packaging shall be tamper-evident; and resealable if it contains more than one serving.

- Beginning January 1, 2020, a package containing cannabis goods shall be resealable, tamper-evident, and child resistant.

- Immature cannabis plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child-resistant packaging.

Shipments and inventory
- Licensed retailers can only receive shipments from licensed distributors between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.

- Licensed retailers must be able to account for all inventory of cannabis goods and provide the Bureau with inventory records upon request.

Retailer to retailer transfer
- Cannabis goods may be transported by a licensed distributor from one retail location to another retail location if the retail licenses for both locations are held by the same licensee.

Records
- A licensed retailer must maintain financial records, personnel records, training records, contracts, permits, security records, destruction records, data entered into track-and-trace, and an accurate record of all sales for seven years. All records must be made available to the Bureau upon request.
Commercial Cannabis Overlay: Manufacturing, Testing Laboratories, & Distribution

Source: ESRI, 2017; City of Concord, 2017; PlaceWorks, 2018.
Good Morning Mayor Birsan and City Council Members,

I recently read this and want to urge you to "Tell Y(our) Children: The Truth About Marijuana, Mental Illness, and Violence".

https://imprimis.hillsdale.edu/marijuana-mental-illness-violence/

Alex Berenson is a graduate of Yale University with degrees in history and economics. He began his career in journalism in 1994 as a business reporter for the Denver Post, joined the financial news website TheStreet.com in 1996, and worked as an investigative reporter for The New York Times from 1999 to 2010, during which time he also served two stints as an Iraq War correspondent.

Even though "conventional wisdom" and recent laws say otherwise, I believe the evidence shows the real dangers of marijuana and of making it more acceptable and easier to acquire.

I look forward to your thoughts.

For the Welfare of Concord and Our People, Our Families,
David Zarri
Hi Michael,

I am writing to ask that the City of Concord City Council consider amending its cannabis ordinance to allow non-storefront dispensaries. Non-storefront dispensaries are extremely low impact and allow universal access to adults without the impact of a retail location. They are typically located in industrial or light industrial zones. They have no signage. And, have subtle but complete security.

Here is a quick breakdown of how our Retail Non-Storefront business operates:

1. Wholesale product arrives from licensed distributors in compliant vehicles, and all product arrives to our facility with Certificates of Analysis ("COAs", ie: the product has passed the required testing).
2. The product is all fully packaged in “retail-ready” sizes; no odor ever occurs.
3. We manage the inventory, hire & manage the staff (all W2 employees) and dispatch the drivers from the warehouse.
4. The products are put in cases for each driver daily and the drivers pick up times are staggered resulting in no congestion around the warehouse.

And here are some of our Safety Practices:

- The driver’s cars are unmarked and have a number of security features.
  They return to the dispensary at the end of their shift to return any unsold goods.
- Credit cards sales represent over 75% of all sales reducing the amount of cash involved and the cash that is received is picked up by an armored car service.

Our company, FUMÉ Highroad, has been delivering to Napa, Marin and Sonoma Countites out of Clearlake, CA since last summer with great results. We have not had any incidents of crime and our cutomers are very satisfied. We partner with the technology company, EAZE. They facilitate the online orders and help us track inventory, driver scheduling and tracking. Our service area expanded to Contra Costa County just over a month ago.

We would be thrilled to open a Retail Non-Storefront dispensary (“Delivery Only”) in Concord to serve Contra Costa County more efficiently. We would like to bring jobs and local taxes to the City of Concord. We encourage the Council to consider an amendment to the ordinance as soon as possible.

Many thanks,

Eric

Eric Sklar
CEO, FUMÉ
707-484-8656