



**REGULAR MEETING OF THE
CITY OF CONCORD
PLANNING COMMISSION**

**Wednesday, July 15, 2015
7:00 p.m. – Council Chamber
1950 Parkside Drive, Concord**

Planning Commission Members:

Robert Hoag, Chair

Ernesto A. Avila, Vice Chair

Jason Laub, Commissioner

Tim McGallian, Commissioner

Carlyn Obringer, Commissioner

**REGULAR MEETING
7:00 p.m. – Council Chamber**

I. ROLL CALL

II. PLEDGE TO THE FLAG

III. PUBLIC COMMENT PERIOD

IV. ADDITIONS / CONTINUANCES / WITHDRAWALS

V. CONSENT CALENDAR

1. 7/1/15 Meeting Minutes

VI. PUBLIC HEARINGS

- 1. [Concord Development Code Update \(PL15254 - MC\)](#) - City-initiated Development Code Update to correct minor code errors and inconsistencies, implement actions mandated by the State Legislature, and to codify policies discussed at prior study sessions. The proposed Development Code Updates concern Sections 18.20.020, Personal Services Restricted Use Classifications; 18.40.020, Small Residential Care Facilities in Office and Commercial Districts; 18.200.130, Mechanical and Electronic Games; 18.200.050, Child Day Care Facilities; 18.200.200, Temporary Events, Uses, and Structures; Section 18.415.100, Decisions and Findings; 18.505.020, Time Limits and Extensions; and 18.540.090, Limitations of Actions. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, the project is classified as Categorically Exempt pursuant to 15061(B)(3), and no further environmental review is required. Because the proposed changes are minor in nature and constitute error corrections, the codification of existing policy, or are the result of State legislative action, the proposed code amendments will have no impact on the environment. In addition, future projects which may be affected by any of the proposed changes would be individually addressed under the California**

Environmental Quality Act. **Project Planner: Andrew Mogensen @ (925) 671-3332**

VII. COMMISSION CONSIDERATIONS

- [1. An Amendment to the Rules of the Planning Commission of the City of Concord to Change the Meeting Start Time to 6:30 PM](#)**

VIII. STAFF REPORTS / ANNOUNCEMENTS

IX. COMMISSION REPORTS / ANNOUNCEMENTS

X. FUTURE PUBLIC HEARING ITEMS

XI. ADJOURNMENT

NOTICE TO PUBLIC

ADA ACCOMMODATION

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 (5) days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

APPEALS

Decisions of the Planning Commission on use permits, variances, major subdivisions, appeals taken from decisions of the Zoning Administrator or staff interpretations of the Zoning Code may be appealed to the City Council. Appeals and the required filing fee must be filed with the City Clerk within ten (10) days of the decision.

If you challenge any of the foregoing described actions in court, an appeal first of said actions to the Zoning Administrator, Planning Commission, and/or City Council (as applicable) in the manner and within the time period established in Development Code Chapter 18.510 (Appeals and Calls for Review) is required, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Administrator and/or Planning Commission (as applicable) at, or prior to, said public hearing.

APPLICANT'S SUBMITTAL OF INFORMATION

Submittal of information by a project applicant subsequent to the distribution of the agenda packet but prior to the public hearing may result in a continuance of the subject agenda item to the next regularly scheduled Planning Commission meeting, if the Commission determines that such late submittal compromises its ability to fully consider and evaluate the project at the time of the public hearing.

CONSENT CALENDAR

All matters listed under CONSENT CALENDAR are considered by the Commission to be routing and will be enacted by one motion. There will be no separate discussion of these items unless requested by a Commissioner prior to the time Commission votes on the motion to adopt.

CORRESPONDENCE

Correspondence and writings received within 72 hours of the scheduled Planning Commission meeting that constitute a public record under the Public Records Act concerning any matter on the agenda is available for inspection during normal business hours at the Permit Center located at 1950 Parkside Drive, Concord. For additional information contact the Planning Division at (925) 671-3152.

HEARINGS

Persons who wish to speak on hearings listed on the agenda will be heard when the hearing is opened, except on hearing items previously heard and closed to public comment. Each public speaker should limit their comments to three (3) minutes or less. The Chair may grant additional time. The project applicant normally shall be the first person to make a presentation when a hearing is opened for public comment. The project applicant's presentation should not exceed ten (10) minutes unless the Chair grants permission for a longer presentation. After the public has commented, the item is closed to further public comment and brought to the Planning Commission level for discussion and action. Further comment from the audience will not be received unless requested by the Commission. No public hearing or hearing shall commence after 11:00 p.m. unless this rule is waived by majority vote of the Commission.

MEETING RECORDS

Planning Commission meetings are available for viewing on the City's website, www.cityofconcord.org and at the Concord Public Library. Copies of DVDs of the Planning Commission Meeting are available for purchase. Contact the Planning Division at (925) 671-3152 for further information.

NOTICE TO THE HEARING IMPAIRED

The Council Chamber is equipped with Easy Listener Sound Amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the Easy Listener Phonic Ear Personal Sound Amplifier from the staff for personal use during Commission meetings.

ROUTINE AGENDA ITEMS AND CONTINUED ITEMS

All routine and continued items will be considered by the Planning Commission at the beginning of the meeting. There will not be separate discussions of these items unless a request is made prior to the time the Planning Commission considers the motions.

SPEAKER'S CARD

Members of the audience who wish to address the Planning Commission should complete a speaker's card available in the lobby or at the front bench. Submit the completed card to staff before the item is called, preferably before the meeting begins.

TELEVISED MEETINGS

All Planning Commission meetings are broadcast live on Astound Broadband channel 29 and Comcast channel 28. The meeting is replayed on the Thursday following the meeting at 8:00 a.m., 2:00 p.m. and 8:00 p.m. Replays are also broadcast on Fridays and Saturdays. Please check the City website, <http://www.cityofconcord.org/about/citynews/tvlistings.pdf> or check the channels for broadcast times.

NEXT PLANNING COMMISSION MEETINGS:

August 5, 2015: CANCELLED
August 19, 2015: 7:00 pm – Council Chambers

**REPORT TO PLANNING COMMISSION**

DATE: July 15, 2015

SUBJECT: DEVELOPMENT CODE CLEAN-UP AMENDMENTS (PL15000254-MC)**Recommendation: Adopt Resolution No. 15-09PC recommending City Council adoption of the Development Code Clean-Up Amendments.****I. Background**

The Development Code is a living document that requires routine maintenance in order to remain an effective instrument that reflects the goals and policies of the City. Regular and routine Code updates are necessary in order to address changing conditions, community needs and interests, and to comply with State legislative mandates.

The City Council adopted the current Development Code on July 24, 2012, following a complete overhaul of the former Zoning Ordinance which had not been comprehensively updated since its adoption in 1953. The adoption of the new Development Code was the culmination of a multi-year effort. Staff has been bringing forward annual Development Code updates as a part of the Planning division's ongoing work program every year since 2012.

On July 22, 2014, the City Council took the most recent step to update the Code by adopting Ordinance 14-2, which effectively renumbered and reformatted the Development Code to be consistent with the Municipal Code. The action did not change the content of the Code but instead reorganized it in a logical and coherent manner with an expandable numbering system. The new numbering also designated reserved chapters to accommodate new subject matter as future needs arise. Over the past year, Staff has been updating all applications, checklists, handouts, and other public information to reflect the newly renumbered Development Code sections.

Over the past year, the Planning Commission held three study sessions to discuss potential updates to the Development Code. At the first study session on October 17, 2014, the Planning Commission discussed a prohibition on hookah lounges, addressing the outdated Mechanical and Electronic Games ordinance, revisiting temporary sign provisions, and discussed a number of other long-range projects related to the Planning division's work program. Updates to the City's parking standards were determined to be a major undertaking requiring outside expertise and were not included with this year's work program.

At the conclusion of the October 17th study session, the Planning Commission requested staff return with a follow-up study session to focus on temporary signs and displays, which was held on February 4, 2015. During that study session, the Planning Commission discussed new code provisions for sidewalk sales, A-frame signs, improving business outreach and promotion, and returning the issuance of temporary banner permits to the Permit Center. Due to the complexity of the issue, the Commission requested a follow-up study session to focus solely on A-frame signs, which was held on April 15, 2015.

Following the outcome of the Planning Commission's February 4, 2015 study session, Staff provided a report and presentation to the City Council on March 24, 2015. After the presentation, the City Council members provided a number of comments and were generally in agreement that temporary signs should be regulated with balance, fairness, and common sense. They were all supportive of efforts to simplify and streamline the permitting process, support small businesses, and to take a closer look at permit fees and requirements. Some of the Council members presented concerns about the impact temporary signs and sidewalk sales could have on the City's image. The Council did not provide specific direction regarding the language or details of the proposed code updates to be undertaken, but supported the general direction of the efforts and that they looked forward to reviewing the Planning Commission's recommendations.

The Planning Commission's third and most recent study session focusing on A-frame signs was held on April 15, 2015. Due to challenges with the regulation and enforcement as well as the aesthetic impact, the Planning Commission did not recommend changes to the existing A-frame sign provisions at the April 15th study session.

In the meantime, staff is currently moving forward with an update to Title 17 of the Municipal Code, the City's Subdivision Code. Staff issued a Request for Proposals (RFP) to select a consultant to assist with the preparation of a new Subdivision Ordinance in February, 2015. The outcome of that process was the selection of a consultant, Ben Noble City and Regional Planning, who will be brought forward for contract approval by the City Council on July 7, 2015. Ben Noble has extensive experience preparing zoning codes, subdivision ordinances, general plans, and other planning documents for communities throughout California. Staff will provide the Planning Commission with an update regarding the Subdivision Ordinance following the City Council's decision.

Should the Planning Commission recommend adoption of the proposed Development Code Amendments, final consideration of the proposed amendments will be tentatively scheduled for City Council consideration at their meeting on September 1, 2015.

II. California Environmental Quality Act (CEQA)

Because the proposed Development Code changes are minor in nature and constitute error corrections, the codification of existing policy, or are the result of State legislative action, the proposed code amendments will have no impact on the environment. In addition, future projects which may be affected by any of the proposed changes would be individually addressed under the California Environmental Quality Act. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, the project is classified as exempt pursuant to 15061(B)(3), and no further environmental review is required.

III. Discussion and Analysis of Proposed Development Code Amendments

18.20.020 Use Classifications - Exhibit A

For different reasons, Staff is proposing to delete four uses identified as "Personal Services, Restricted" in the Use Classification section of the Development Code: Fortune Tellers, Palm and Card Readers, Psychic Readers, and Hookah Lounges. Of these, Fortune Tellers, Palm and Card

Readers, and Psychic Readers are being removed due to regulatory limitations established under the Federal Religious Land Use and Institutionalized Persons Act (RLUIPA). Staff is also recommending that Hookah Lounges be deleted from this section and prohibited, based on prior Planning Commission policy discussion.

Section 18.20.020, Use Classifications, defines “Personal Services, Restricted” as “an establishment that provides personal services that tend to have a negative economic impact upon surrounding areas and may need to be dispersed to minimize their adverse impacts.” “Personal Services, Restricted” designated land uses require either a Use Permit or Minor Use Permit prior to commencing with their business operations, depending on the requirements of each individual zoning district.

Hookah Lounges

Following the Planning Commission’s discussion regarding hookah lounges at the October 17, 2015 study session, the Planning Commission directed staff to prepare a draft ordinance that would effectively prohibit hookah lounges from operating in the City of Concord. This direction is consistent with prior City policies and ordinances regarding tobacco use, including the City’s prohibition on smoking in the workplace.

In 1993, the City of Concord passed Ordinance 93-4 which prohibits smoking in most places of employment. This ordinance, listed under Chapter 8.35 of the Municipal Code, contains an exemption for certain specific businesses including “retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia.” The City of Concord currently has two hookah lounges in operation, neither of which primarily operates as a retail tobacco store. These businesses tend to serve food and snacks and provide entertainment in addition to smoking.

In 1994, the State of California passed the Smokefree Workplace Act, which also prohibited smoking in most places of employment. The State law was more restrictive than the City’s ordinance and resulted in a statewide prohibition on smoking in bars, restaurants, and any establishments that serve food or drinks. Like Concord’s ordinance, the State law did allow an exemption for certain specific types of businesses. One of those specific exemptions was for a category known as “smokers’ lounges,” which includes uses such as cigar lounges and hookah lounges. Although State law allows hookah lounges under the smokers’ lounge exemption, they are not allowed to serve food or drinks.

In order for a hookah lounge to operate in compliance with both Chapter §8.35 of the Municipal Code, Smoking in Public Places and Workplaces, and the State’s 1994 Smokefree Workplace Act, which is codified under California Labor Code Section §6404.5, their business operations would be strictly limited to the retail sale of tobacco and smoking paraphernalia with on-site smoking permitted. Entertainment and the serving and consuming of food and drinks at a hookah lounge cannot be legally conducted when both laws are applied.

Fortune Tellers, Palm and Card Readers, Psychic Readers

Due to recent court decisions identifying fortune tellers, palm and card readers, and psychic readers as protected religious land uses under the Federal Religious Land Use and Institutionalized Persons Act (RLUIPA), the City is re-evaluating code provisions related to these uses. These particular uses have

been associated with the Roma culture and certain religious faiths and may have special protected status under Federal law. Although they are proposed for deletion under the “Personal Services, Restricted” land use classification, the effect would not prohibit their use as a religious facility. The Development Code contains existing provisions for religious facilities.

18.40.020 Small Residential Care Facilities in Office and Commercial Districts – Exhibit B

Residential Care Facility provisions in Concord’s Development Code are based upon requirements established by State law. Small Residential Care Facilities generally provide care, supervision and assistance with daily living activities, such as bathing and grooming, in a residential home for less than six persons. They may also provide incidental medical services under special care plans, but do not serve as hospitals, nor provide skilled nursing.

It is legal for Small Residential Care Facilities to exist and operate within the Community Office zoning district, but the current Table of Permitted Uses does not correctly identify this provision. The Planning division recently noticed Section 18.40.020, Office and Commercial Districts, was not in conformance with Sections 1568 and 1569 of the California Health and Safety Code, most likely due to an error or oversight. The proposed Code correction would restore the allowance of a Small Residential Care Facility in the Community Office zoning district by correctly identifying it as being a permitted use (“ZC”) in the Table of Permitted Uses (the minor change is on the bottom of Exhibit B, Page 7 of 8, under the first column).

18.200.130 Mechanical and Electronic Games – Exhibit C

In 1983, the City Council approved Ordinance 83-8, which imposed strict restrictions on the use, location, and operation of mechanical and electronic games. Any Concord business wishing to operate four or more arcade or pinball games is currently required to obtain Planning Commission approval of a Use Permit, pass a criminal background check, and prohibit minors from playing games between 7:00 am and 3:30 pm on a school day, among other restrictions. These restrictions continue to remain in effect in the current Development Code.

Last summer, a concerned local business owner brought this code to the attention of the Planning division following some difficulties. After researching the issues, Staff found the regulations to be onerous for a substantial number of existing Concord businesses such as pizza restaurants and retail stores. Staff also found that one of the reasons why the Mechanical and Electronic Game provisions continued to remain in place was due to their usefulness in the prevention and enforcement of illegal gambling operations.

From time to time, the City of Concord has had problems with illegal gambling operations. They tend to operate in plain view and appear as a legitimate business functioning as an internet cafe or business center, providing rows of computers for customer use. They often sell a product such as a phone card or internet access time, but in return for the token purchase, they allow customers to win additional money through a sweepstakes or gambling game provided on computers or other devices in the business. The Code Enforcement division has often relied upon the Mechanical and Electronic Games code to enforce these operations as they arise.

Staff proposes to maintain the City's enforcement ability while simplifying and streamlining the process for legitimate businesses by allowing the use of mechanical and electronic games with an Administrative Permit, an approval issued over the counter at the Permit Center, rather than with a Use Permit. Restrictions related to the hours of operation, distance from residences, and the police background check requirement would also be eliminated. The recommended code provisions would continue to allow the City the ability to address potential issues on a case by case basis through individual conditions imposed on the Administrative Permit, if deemed necessary. The presence of a responsible manager would continue to be required. In addition, retail businesses which sell vintage games as well as schools, museums, cultural centers, and public libraries would be exempted from the permit requirement altogether. Staff believes the proposed code amendment is substantially more business friendly while still allowing an appropriate level of oversight and regulation.

18.200.050 Child Day Care Facilities – Exhibit D

Regulations related to child day care facilities in Concord's Development Code are established by State law (California Health and Safety Code Sections 1597.44, 1597.465, et al). The current code provisions regarding family day care homes are in compliance with state law, but have not been updated in regards to allowances for children who reside in the home or belong to an assistant caretaker.

Staff is proposing to update and clarify the existing language regarding Child Day Care Facilities in the Development Code to match the level of detail identified in State Administrative Code (Sections 102352(f)(1)(A) and 102416.5(b)). These changes do not modify the existing code provisions or alter the number of children currently permitted, but clarify an omitted level of detail as it pertains to children who already live in the licensee's home or may belong to an assistant child care provider who does not live in the licensee's home, in compliance with State law.

18.200.200 Temporary Events, Uses, and Structures – Exhibit E

The Development Code provisions for temporary events and outdoor merchandise displays that currently exist in Section 18.200.200 are not clearly written, resulting in some difficulty when staff interprets and applies the code in real world situations. The Planning Commission previously considered these items at their February 4, 2015 study session. At that meeting, staff recommended a number of code clean-up items pertaining to the outdoor display of merchandise and to revise the code to differentiate between the different levels of outdoor displays, which can range from a simple sidewalk sale to a multi-day parking lot sales event. With direction from the Planning Commission at the study session, staff has prepared draft code language with the purpose of improving the functionality of this code section.

Sidewalk sales are a relatively common form of business promotion and, when regulated properly, generally have a positive benefit with minimal problems. Staff has proposed draft code language allowing Sidewalk Sales with an approved Administrative Permit for up to three consecutive days once every three months. The code has been drafted to allow Staff the ability to review, evaluate, and condition each proposed sidewalk sale on a case-by-case basis to address potential issues. Businesses

in the Downtown Pedestrian (DP) and Downtown Mixed Use (DMX) zoning districts with storefronts fronting the public right-of-way would also be able to apply for an Administrative Permit to conduct a sidewalk sale when accompanied by an Encroachment Permit.

Staff has also proposed some additional changes to section 18.200.200 in relation to minor events and outdoor produce displays. Staff is recommending draft code language that would prohibit minor promotional events which do not require a permit, such as Girl Scout cookie sales or small fundraisers, from using amplified sound equipment or erecting temporary structures such as a tent or stage. If these features are employed, the event would be classified as a major temporary event and require an Administrative Permit. In addition, staff is proposing to add language enabling grocery stores and supermarkets the ability to display fresh produce outdoors without the need to apply for a special permit. A number of grocery stores and markets in Concord already display fresh produce in front of their store entrance on a daily basis in a tasteful manner and, with the proposed code language, would no longer require a permit to do so. If the store wanted to display merchandise other than fresh produce, they would be able to do so with a sidewalk sale permit under the proposed code amendment.

18.415.100 Decisions and Findings – Exhibit F

As a matter of code clean-up and housekeeping, staff proposes to delete an obsolete requirement to make findings that projects are consistent with the Design Guidelines. References to the Design Guidelines were generally removed in the 2012 Development Code Update. Concord's Community Design Guidelines have not been updated since 1987.

18.505.020 Time Limits and Extension – Exhibit G

Staff is proposing to extend the minimum timeframe for any permit or approval to obtain building permits from 12 to 24 months. Complex projects often require more than one year of time between Planning Commission or City Council approval and submitting an application for building permits.

In addition, staff is proposing language that would also allow the reviewing authority the ability to provide time extensions of up to 24 months, rather than the current maximum of 12 months. The amount of time permitted for each time extension would still be considered on a case-by-case basis. This code provision does not apply to tentative subdivision maps, which have timeframes regulated by State law under the Subdivision Map Act. Active projects which have previously requested a time extension would be able to apply for a further 12 month extension.

18.540.090 Limitation of Actions – Exhibit H

As a matter of housekeeping, references in the Development Code to State statutes that no longer exist should be deleted, since they are no longer pertinent or in force. California Government Code Section 65907 involving severability is still referenced in the Development Code, even though the State code section was changed some years ago and no longer applies. This proposed code deletion will have no effect on any provisions of the Development Code.

IV. Fiscal Impact

The adoption of the proposed Development Code updates will have no fiscal impact on the City. The Planning division's efforts are supported by the City's General Fund.

V. Public Contact

All appropriate public notices of this agenda item have been posted. An advertisement was posted in the newspaper in accord with the public notification requirements.

VI. Recommendation

Staff recommends the Planning Commission adopt Resolution 15-09PC, recommending the City Council adopt an Ordinance approving the proposed Development Code amendments.

Prepared by:


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Reviewed by:


Laura Simpson
Planning Manager

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Exhibits:

1. Planning Commission Resolution 15-09
2. Exhibit A: 18.20.020 Use Classifications
3. Exhibit B: 18.40.020 Small Residential Care Facilities
4. Exhibit C: 18.200.130 Mechanical and Electronic Games
5. Exhibit D: 18.200.050 Child Day Care Facilities
6. Exhibit E: 18.200.200 Temporary Events, Uses, and Structures
7. Exhibit F: 18.415.100 Decisions and Findings
8. Exhibit G: 18.505.020 Time Limits and Extension
9. Exhibit H: 18.540.090 Limitation of Actions

1 Code as well as State and Federal law, address minor technical errors, and enact established policies;
2 and

3 **WHEREAS**, the Planning Commission previously hosted three public study sessions to
4 discuss the Amendment to the Development Code on October 17, 2014, February 4, 2015, and April
5 15, 2015; and

6 **WHEREAS**, the Planning Commission, after giving all public notices required by State Law
7 and the Concord Municipal Code, held a duly noticed public hearing on July 15, 2015, on the
8 proposed Amendment; and

9 **WHEREAS**, at such public hearing, the Planning Commission considered all oral and written
10 information, testimony, and comments received during the public review process, including
11 information received at the public hearing, the oral report from City staff, the written report from City
12 staff dated July 15, 2015, materials, exhibits presented, and all other information that constitutes the
13 record of proceedings on which the Planning Commission has based its decision are maintained at the
14 offices of the City of Concord Planning Division (collectively, "Amendment Information"); and

15 **WHEREAS**, said Development Code Amendment has complied with the requirements of
16 "The Rules to Implement the California Environmental Quality Act of 1970" (CEQA) in that the City
17 of Concord has reviewed the Amendment under the provisions of CEQA, and has determined that the
18 Amendment is exempt pursuant to Section 15061(B)(3), Review for Exemptions of the CEQA
19 Guidelines; and

20 **WHEREAS**, on July 15, 2015, the Planning Commission, after consideration of all pertinent
21 plans, documents, and testimony, declared their intent to recommend approval of the Amendment.

22 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

23 Recitals

- 24 1. The Planning Commission of the City of Concord does hereby make the following findings:
- 25 a. The recitals above are true and correct and are incorporated herein by reference.
 - 26 b. The proposed Amendment is consistent with the policies in the 2030 General Plan and
27 is necessary in order to improve the accuracy of the Development Code and its

standards and further achieve internal consistency and consistency with the rest of the Concord Municipal Code.

- c. The proposed Amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

General

- 2. The Planning Commission has reviewed, considered, and evaluated all of the Amendment Information prior to acting upon Amendment.
- 3. The documents and other materials that constitute the record of proceedings upon which the Planning Commission has based its recommendation are located in and may be obtained from the City of Concord Planning Division, 1950 Parkside Drive, Concord, CA 94519.

CEQA

- 4. 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 Development Code Amendment does not constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even if the Amendment did constitute a project under CEQA, the Amendment falls within the “common sense” exemption set forth in 14 Cal. Code Regs. 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...”. Any future project resulting from the Amendment will be subject to CEQA and evaluated on a case-by-case basis. Furthermore, the Amendment is necessary in order for the Development Code to comply with both State and Federal law.

Amendment

- 5. The Planning Commission does hereby recommend that the City Council adopt an Ordinance to approve the Amendment, consistent with the revision exhibits identified in Attachments A

1 through H.

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

3 **PASSED AND ADOPTED** this 15th day of July, 2015 by the following vote:

4 **AYES:**

5 **NOES:**

6 **ABSTAIN:**

7 **ABSENT:**

8
9

Laura Simpson,
Secretary to the Planning Commission

10
11 **Attachments:**

- 12 1. Attachment A: 18.20.020 Use Classifications
13 2. Attachment B: 18.40.020 Small Residential Care Facilities
14 3. Attachment C: 18.200.130 Mechanical and Electronic Games
15 4. Attachment D: 18.200.050 Child Day Care Facilities
16 5. Attachment E: 18.200.200 Temporary Events, Uses, and Structures
17 6. Attachment F: 18.415.100 Decisions and Findings
18 7. Attachment G: 18.505.020 Time Limits and Extension
19 8. Attachment H: 18.540.090 Limitation of Actions

Attachment A

18.20.020 Use classifications.

Personal Services.

A. General. An establishment that provides recurrently needed nonmedical services of a personal nature, which may involve the retail sales of products related to the services provided. This classification applies to establishments with a primary focus of household and consumer product repair, as opposed to a retail sales establishment that offers service and repair of their merchandise as an ancillary use. (See "General" under "Retail Sales.") Examples include:

1. Barber and beauty shops.
2. Clothing rental.
3. Day spas.
4. Dry cleaning pick-up stores with limited equipment.
5. Home electronics and small appliance repair.
6. Laundromats (self-service laundries).
7. Massage therapy.
8. Portrait photography.
9. Shoe repair shops.
10. Tailors and seamstresses.
11. Tanning salons.
12. Television and radio repair.
13. Travel agencies.
14. Video store.

B. Improvement or Instructional. An establishment that provides instructional services or facilities for personal improvement including fine arts, crafts, dance or music studios, exercise or fitness studios, learning centers, driving schools, photography, diet center, and martial arts. This classification does not include vocational training.

C. Restricted. An establishment that provides personal services that tend to have a negative economic impact upon surrounding areas and may need to be dispersed to minimize their adverse impacts. Examples include:

1. Bail bonds.
2. Massage parlors.

3. Pawn shops.
4. Spas and hot tubs for hourly rental.
5. Tattoo and body piercing services.

Attachment B

18.40.020 Table 18.40.020 – Office and commercial districts – Allowed uses and permit requirements.

A. Applicability. Table 18.40.020 identifies the uses allowed by the development code in each office and commercial zoning district and the type of permit required to establish each use. See CDC 18.25.030(B) or Division VII of this title (Permits and Permit Procedures). Additional requirements may apply pursuant to Division IV (Development Standards) and Division V (Standards for Specific Uses) of this title.

Table 18.40.020 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC – Permitted Use, Zoning Clearance AP – Administrative Permit Required MP – Minor Use Permit Required UP – Use Permit Required – Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
Office, Commercial, and Retail Uses						
Adult Day Care Center	–	ZC ⁽⁵⁾	ZC ⁽⁵⁾	ZC	ZC	
Adult-Oriented Business	–	–	–	–	–	Chapter 18.210 CDC, Adult-Oriented Businesses
Animal Services						
Boarding, Kennel	–	UP	UP	MP	MP	
Dog Day Care, Training	–	ZC	ZC ⁽²⁾	ZC	ZC	
Grooming	–	ZC	ZC ⁽²⁾	ZC	ZC	
Hospital, Veterinary Clinic	ZC	ZC	ZC ⁽²⁾	ZC	ZC	
Antique, Collectible Store	–	ZC ⁽⁴⁾	ZC	ZC	ZC	
Automobile Sales and Rental/Leasing						
Auction	–	–	–	ZC	–	
Brokers, Office Only	ZC	ZC	ZC	ZC	ZC	
Brokers, Office with Vehicle Display	AP	AP	–	ZC	ZC	
Dealership, New	–	–	–	UP	ZC	
Dealership, Used	–	–	–	ZC	–	

Dealership, Motorcycles	-	-	-	ZC	ZC	
Rental	-	-	-	AP	MP	
Automobile Services and Repair						
Car Wash, Attended	-	-	UP	AP	UP	CDC 18.200.090, Gas stations and car washes
Car Wash, Unattended	-	-	-	UP	-	CDC 18.200.090, Gas stations and car washes
Gas Station	-	-	UP	UP	UP	CDC 18.200.090, Gas stations and car washes
Maintenance Services	-	UP	UP	ZC	ZC	
Major Repair/Body Work	-	-	-	ZC	-	
Minor Repair	-	-	UP	ZC	AP	
Banks and Financial Services						
Bank, Credit Union	-	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Bank with Drive-Through Service	-	UP	UP	UP	MP	CDC 18.200.060, Drive-through facilities
Check Cashing Business	-	-	-	-	-	
Building Materials Sales and Services						
No Outdoor Storage	-	-	ZC	ZC	ZC	
With Outdoor Storage	-	-	-	AP	UP	CDC 18.200.160, Outdoor sales and displays
Business Support Services	ZC	ZC ⁽³⁾	ZC ^(2, 3)	ZC ⁽³⁾	ZC ⁽³⁾	
Catering Service	-	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC	ZC	
Eating and Drinking Establishments						
Bar, Night Club, Lounge	-	UP	UP	UP	UP	CDC 18.200.080, Entertainment uses
Food Vendor Group Site	-	MP	MP	MP	MP	CDC 18.200.210, Food vendor group sites
Micro-Brewery/Distillery	-	-	-	MP	MP	CDC 18.200.040, Alcoholic beverage sales
Micro-Brewery/Distillery, Large ⁽⁶⁾	-	-	-	UP	UP	CDC 18.200.040, Alcoholic beverage sales
Restaurant, Full Service	-	AP	AP	UP	ZC	CDC 18.200.040, Alcoholic beverage

						sales
Restaurant, Limited Service	-	ZC ⁽⁴⁾	ZC	AP	ZC	
Restaurant, with Drive-Through	-	UP	UP	UP	UP	CDC 18.200.060, Drive-through facilities
Restaurant, with Live Entertainment	-	-	UP	UP	UP	CDC 18.200.080, Entertainment uses
Tasting Room	-	-	-	AP	AP	CDC 18.200.040, Alcoholic beverage sales
Fitness Facility, Health Club	-	AP	AP ⁽²⁾	AP ⁽²⁾	AP	
Food, Beverage Sales						
Convenience Store, no Alcohol Sales	-	ZC ⁽⁴⁾	ZC	ZC	ZC	
Convenience Store, with Alcohol Sales	-	UP	UP	-	UP	CDC 18.200.040, Alcoholic beverage sales
Grocery Store	-	ZC ⁽⁴⁾	ZC	ZC	ZC	
Liquor Store	-	-	UP	-	UP	CDC 18.200.040, Alcoholic beverage sales
Hotel, Motel	-	UP	UP	UP	UP	
Maintenance Services						
Office with No Outdoor Storage or Activities	-	-	-	ZC	-	
Office with Outdoor Storage or Activities	-	-	-	AP	-	
Nursery, Preschool, Childcare	UP	UP	UP	AP	AP	CDC 18.200.050, Child day care facilities
Offices						
Administrative, Information Processing	ZC	ZC	-	ZC	ZC	
Medical, Dental	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Professional	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Personal Services						
General	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC ⁽²⁾	
Improvement, Instructional	-	ZC	ZC ⁽²⁾	ZC	ZC	

Restricted	-	-	MP	MP	MP	
Repair Service, Appliance and Small Equipment	-	-	UP	ZC	-	
Retail Sales						
Big Box	-	UP	UP	UP	UP	
General	-	ZC ⁽⁴⁾	ZC	ZC	ZC	
Nursery, Garden Center	-	UP	ZC	ZC	ZC	CDC 18.200.160, Outdoor sales and displays
Restricted	-	-	MP	MP	MP	
Retail Sales with Drive-Through	-	UP	UP	UP	UP	CDC 18.200.060, Drive-through facilities
Secondhand Sales	-	AP	AP	AP	-	

Business Park and Industrial Uses						
Auto Wrecking, Dismantling Yard	-	-	-	-	-	
Contractors, Special Trade						
Cabinet Shop	-	-	-	ZC	-	
Contractor Office, No Outdoor Storage	ZC	ZC	-	ZC	-	
Contractor Yard, with Outdoor Storage	-	-	-	ZC	-	
Fleet-Based Service	-	-	-	ZC	UP	
Freight and Truck Terminal	-	-	-	-	-	
Heavy Vehicle and Large Equipment, Sales/Rental, Service, and Repair						
Commercial Vehicles and Equipment	-	-	-	AP	-	
Recreational Vehicle	-	-	-	AP	-	
Laboratory, Research, and Development	ZC	AP	-	ZC	-	
Manufacturing, Processing						
Artisan/Custom Product	-	-	-	ZC	-	
Industry, Heavy	-	-	-	-	-	
With No Outdoor Storage or Activities	-	-	-	ZC	-	
With Outdoor Storage or		-	-	AP	-	

Activities						
Warehouse Show Room with Assembly and Sales	-	-	-	ZC	-	
Media Production Facility	ZC	ZC	-	ZC	-	
Storage						
Hazardous Materials	-	-	-	-	-	
Self-Storage Facility, Mini-Storage	-	-	-	UP	-	
Vehicle	-	-	-	UP	-	
Towing Services	-	-	-	UP	-	
Warehouse, No Outdoor Storage	-	-	-	ZC	-	
Warehouse, with Outdoor Storage	-	-	-	ZC	-	
Wholesaling, Distribution	-	-	-	AP	-	
Public/Quasi-Public and Recreational Uses						
Airport	-	-	-	-	-	
Ambulance Service	-	UP	-	AP	-	
Cemetery, Columbarium, Mausoleum	-	-	-	-	-	
Conference, Convention Facility	UP	-	-	-	UP	
Cultural Institution	-	UP	UP	UP	UP	
Emergency and Homeless Shelter	-	-	-	-	-	CDC 18.200.070, Emergency and homeless shelters
Farmers' Market	-	-	UP	UP	UP	
Funeral Parlor, Mortuary	-	-	UP	UP	UP	
Government Office	ZC	ZC	ZC	ZC	ZC	
Heliport	-	-	-	-	-	
Library	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Medical Services						
Hospital, Medical Center	-	-	-	-	-	
Medical Marijuana Dispensary	-	-	-	-	-	
Medical Clinic	ZC	-	ZC ⁽²⁾	ZC ⁽²⁾	ZC	

Nursing Facility/Extended Care	-	UP	UP	UP	-	
Urgent Care Facility	ZC	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC	ZC	
Meeting Facility, Public/Private	UP	UP	UP	UP	UP	
Military	-	-	-	-	-	
Parking Facility	AP	-	AP	AP	AP	
Public Maintenance and Service Facility	-	-	-	AP	-	
Recreational Facilities						
Bingo Hall	-	-	-	-	UP	
Commercial Recreation, Indoor	-	AP ⁽⁴⁾	AP	UP	ZC	
Golf Course, Country Club	-	-	-	-	-	CDC 18.200.130, Mechanical and electronic games
Park and Recreation Facility	-	-	-	-	-	
Residential Recreation Facility	-	AP ⁽⁵⁾	-	-	-	
Sports and Entertainment, Assembly	-	-	UP	-	UP	CDC 18.200.080, Entertainment uses
Sports and Recreation Facility	-	-	UP	-	UP	CDC 18.200.130, Mechanical and electronic games
Recycling Facilities						
Small Collection Facility	-	-	AP	AP	AP	CDC 18.200.170, Recycling facilities
Large Collection Facility	-	-	-	UP	-	CDC 18.200.170, Recycling facilities
Processing Facility	-	-	-	-	-	CDC 18.200.170, Recycling facilities
Religious Facility	UP	UP	UP	-	-	
Schools						
Elementary, Middle, Secondary	-	MP	-	-	-	
College, University	-	MP	-	-	-	
Trade School,	AP	AP	AP	AP	AP	

Vocational Training						
Social Service Facility, Community Organization	AP	AP	AP	AP	-	
Theater, Auditorium	-	UP	UP	-	UP	CDC 18.200.130, Mechanical and electronic games
Utility Facility, Transmission Towers	-	-	ZC	ZC	ZC	
Wireless Telecommunication Facility – CDC 18.205.010 – 18.205.050, Wireless Communication Facilities						
Residential Uses						
Bed and Breakfast Inn	-	UP	-	-	-	
Dwelling, Dwelling Unit, Housing Unit						
Single-Family, Detached	ZC	-	-	-	-	
Single-Family, Detached – Small Lot Subdivision	UP	UP	-	-	-	
Single-Family, Attached	ZC	ZC	-	-	-	
Secondary Living Unit	AP	AP	-	-	-	CDC 18.200.180, Secondary living units
Duplex	ZC	ZC	-	-	-	
Multifamily	UP	UP	UP ⁽¹⁾	-	-	
Family Day Care Home, Small	ZC ⁽⁵⁾	ZC ⁽⁵⁾	-	-	-	CDC 18.200.050, Child day care facilities
Family Day Care Home, Large	MP ⁽⁵⁾	MP	-	-	-	CDC 18.200.050, Child day care facilities
Group Housing	UP	UP	-	-	-	
Home-Based Business	-	ZC ⁽⁵⁾	ZC ⁽²⁾	-	-	CDC 18.200.100, Home-based businesses
Live/Work Unit	-	ZC ⁽⁵⁾	-	-	-	CDC 18.200.110, Live/work or work/live units
Mixed-Use Projects	UP	AP	UP	-	-	
Mobile Home Park	-	-	-	-	-	
Residential Care Facility, Small	ZC ⁽⁵⁾	ZC ⁽⁵⁾	-	-	-	
Residential Care Facility,	-	MP	-	-	-	

Large						
Residential Facility for Seniors, Assisted Living	-	UP	UP	-	-	
Work/Live Unit	-	-	-	AP	-	CDC 18.200.110, Live/work or work/live units

Open Space and Agricultural Uses						
Companion Animal, Horses, Fowl	-	-	-	-	-	
Community Garden	AP	AP	AP	AP	AP	
Crop Production, Orchard, Vineyard	ZC	ZC	ZC	ZC	ZC	
Livestock, Grazing	-	-	-	-	-	
Mining and Quarrying	-	-	-	-	-	

- (1) Not allowed on ground floor.
- (2) Allowed to occupy up to 20 percent gross area of shopping center or multi-tenant building or 20 percent street frontage of one building.
- (3) No outdoor facilities, storage, or activities are allowed.
- (4) Requires a minimum lot size of 10,000 square feet.
- (5) Allowed with residential use only.
- (6) A facility which exceeds 3,000 square feet.

Attachment C

18.200.130 Mechanical and electronic games.

Where allowed by Division II of this title (Zoning Districts – Uses and Standards), establishments that operate mechanical and electronic games, either as a principal use or ancillary to a principal use, such as a restaurant or retail establishment, shall comply with the requirements of this section.

A. Purpose. The following requirements apply to businesses which employ mechanical or electronic games in order to minimize nuisances that may be detrimental to the public health, safety, and welfare of the surrounding community.

B. Applicability. These requirements apply to all establishments that operate or maintain five or more mechanical and/or electronic games.

C. Permit Requirements. An administrative permit shall be required for commercial establishments that operate five or more mechanical or electronic games.

D. Conditions. The review authority may impose reasonable restrictions on the physical design, location, parking, lighting, and operation of an establishment with mechanical and electronic games in order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.

E. Exemptions. This section does not apply to vintage mechanical or electronic games for sale at an antique or collectible store, or devices used for educational purposes at a school, museum, cultural center, or public library.

F. Adult Manager Required. At least one adult manager (18 years of age or 21 or over if serving alcohol) shall be on the premises during the time the mechanical and electronic games are open to the public. The onsite manager shall be responsible for ensuring compliance with this Section and any conditions imposed; this obligation is in addition to the compliance obligations of the property owner, proprietor, and any other responsible parties.

H. Conflicts. In the event of any conflict between this Section 18.200.130 (Mechanical and electronic games), other provisions the Development Code, conditions imposed on a particular use or establishment, or any provisions of the Concord Municipal Code, the more restrictive shall prevail.

Attachment D

18.200.050 Child day care facilities.

Where allowed by Division II of this title (Zoning Districts – Uses and Standards), child day care facilities, including small and large family day care homes, child day care centers, nursery schools, and preschools, shall comply with the requirements of this section.

A. Purpose. The following requirements provide location and operational standards for child day care facilities, in compliance with state law, to recognize the needs of childcare providers and minimize effects on adjoining properties. All facilities shall be licensed in compliance with the requirements of the California Department of Social Services.

B. Applicability. Child day care facilities shall be allowed as follows:

1. "Small family day care home" means a home that provides family day care for up to six children, or for up to eight children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.44 and as defined in regulations (see 22 California Administrative Code Sections 102352(f)(1)(A) and 102416.5(b)). These capacities include children under age ten who live in the licensee's home.

2. "Large family day care home" means a home that provides family day care for up to twelve children, or for up to fourteen children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.465 and as defined in state regulations (see 22 California Administrative Code Sections 102352(f)(1)(B) and 102416.5(c)). These capacities include children under age ten who live in the licensee's home and the assistant provider's children under age ten who do not live in the licensee's home.

3. Child Day Care Center, Preschool, or Nursery School (15 or More Children). Child day care centers, preschools, or nursery schools shall be allowed subject to the permit specified by Division II of this title (Zoning Districts – Uses and Standards).

C. Permit Requirements.

1. Small Family Day Care Home. The use of a single-family residence as a small family day care home shall be considered a residential use of property for the purposes of the development code, and no permit shall be required.

2. Large Family Day Care Home. The use of a single-family residence as a large family day care home shall be considered a residential use of property for the purposes of the development code and may be operated, subject to first obtaining a minor use permit in accordance with Chapter 18.435 CDC (Minor Use Permits and Use Permits), except as follows:

a. Not less than 10 days prior to the date on which a decision will be made on the application, the planning division shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home, in accordance with CDC 18.500.040 (Exception to required public hearing);

b. No hearing shall be held before a decision is made on the application, unless a hearing is requested by the applicant or other affected person;

c. If a public hearing is not requested, the planning division may approve the application without holding a public hearing;

d. If a hearing is held in accordance with Chapter 18.500 CDC (Public Hearings), any interested person may appeal the decision of the zoning administrator in accordance with the provisions of Chapter 18.510 CDC (Appeals and Calls for Review);

e. For an appeal involving a large family day care home only, the notice of hearing which is required to be provided by any other section of the development code shall be limited to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. Notwithstanding any other provision of the development code, such notice shall not be provided to owners of property beyond such 100-foot radius.

3. Child Day Care Center, Preschool, or Nursery School. Child day care centers, preschools, or nursery schools shall be allowed subject to the permit required by Division II of this title (Zoning Districts – Uses and Standards).

D. General Requirements. The following standards shall apply to all large family day care homes, child day care centers, preschools, and nurseries:

1. Parking and Loading. The following parking requirements shall be provided in addition to the parking requirements in Chapter 18.160 CDC (Parking, Loading, and Access):

a. A minimum of one off-street parking space per employee;

b. For large family day care homes, employee parking shall be in addition to the off-street parking required for the residential use. Driveways may be used for employee parking, provided the driveway is no less than 18 feet in length, measured from the property line or back of sidewalk, whichever is less; and

c. A safe area for pick-up and delivery of children shall be provided. This area shall only be allowed in a driveway, in an off-street parking area, or other on-site area with direct access to the facility.

2. Noise. The location of the facility, including outdoor play areas, shall be sited to minimize noise impacts on neighboring properties. Noise levels shall comply with the standards identified in the general plan.

3. Outdoor Play Areas. Outdoor play areas shall be:

a. Enclosed by a natural barrier, wall, solid fence, or other solid structure at least six feet in height; and

b. Adequately separated from driveways, streets, and parking.

4. Building and Fire Codes. All facilities shall comply with all applicable city, county, and state requirements, including the Uniform Building Code and Fire Code.

E. Findings. The following findings shall be made for approval of a minor use permit or use permit for a large family day care home, child day care center, preschool, or nursery school, in addition to the findings required in Chapter 18.435 CDC (Minor Use Permits and Use Permits):

1. The facility meets all of the standards specified in this section;
2. The facility meets applicable state licensing requirements;
3. Drop-off facilities avoid interference with traffic and promote the safety of children;
4. The facility meets applicable fire and building codes;
5. Additional findings for large family day care homes:
 - a. The primary use of the home is as a residence;
 - b. One off-street parking space is provided for each nonresident employee;
 - c. The facility avoids noise impacts to neighboring properties by design and layout of the site; and
 - d. The facility is not within 300 feet of any other such licensed facility.

F. Appeals. Any interested person may appeal the decision on the minor use permit or use permit in accordance with the provisions of Chapter 18.510 CDC (Appeals and Calls for Review).

Attachment E

18.200.200 Temporary events, uses, and structures.

A. Purpose. This section establishes procedures, standards, and requirements for the approval of temporary activities, events, and uses which are intended to operate on a short-term basis for a limited period. Such activities, events, and uses may not meet the typical use or development standards for a particular zoning district, but may be acceptable due to their temporary nature. Temporary activities, events, and uses include special events provided for the enjoyment of the public, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, and similar temporary activities, events, and uses.

B. Applicability. This section shall apply to temporary activities, events, and uses which are established, operated, and conducted as required by this section. This section does not apply to vendors, which are subject to Chapter 12.50 CMC (Vendors).

C. Permit Requirements. Unless otherwise specified in this section, temporary events, activities, and uses shall require the following approvals. Other temporary or short-term activities that do not fall within these categories shall comply with Division II (Zoning Districts – Uses and Standards), Division IV (Development Standards), and Division V (Standards for Specific Uses) of this title.

1. Exempt Temporary Uses. Minor temporary events, activities, and uses are exempt from the requirements of this section when conducted in accordance with the limitations and conditions described below.

2. Minor Temporary Uses. Minor temporary activities, events, and uses shall require a zoning clearance determination, in accordance with Chapter 18.410 CDC (Zoning Clearance).

3. Major Temporary Uses. Major temporary activities, events, and uses are allowed subject to approval of an administrative permit in accordance with Chapter 18.420 CDC (Administrative Permits), for up to 12 months unless otherwise specified or conditioned in the permit approval. All administrative permit approvals shall be based on compliance with the findings in subsection (G) of this section.

D. Exempt Temporary Uses. Exempt temporary activities, events, and uses conducted in accordance with the limitations and conditions described below shall include:

1. Emergency Facilities. Emergency public health and safety facilities and activities.

2. Garage Sales. No property may have more than three sales per year, and no sale may exceed two consecutive days.

3. Public Property. Activities which are authorized by the city and conducted on city owned properties. Such activities may be subject to CMC 4.05.040 (Permits for use of parks).

E. Minor Temporary Uses. Minor temporary activities, events, and uses conducted in accordance with the limitations and conditions described below shall include:

1. Construction Yards – On-Site. On-site construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the

construction activities, or expiration of the building permit or other permit authorizing the construction project, whichever occurs first.

2. Minor Promotional Events. Special events that meet the following criteria, as applicable, when the planning division determines that the event or activity will not impact an adjacent residential area:

- a. Is conducted within an established shopping center;
- b. Does not occur after 9:00 p.m.;
- c. Is not attended by more than 100 persons;
- d. Does not involve the use of a tent, trailer, vehicle, freestanding canopy, stage, or temporary structure;
- e. Does not have amplifying equipment; and
- f. Does not occur for more than three consecutive days in the same location more than once every six months.

3. Real Estate Sales Offices. Temporary real estate sales offices for the initial sale of property in new residential developments, subject to the following standards:

- a. Is located within a new residence that is part of the development or within a temporary building; and
- b. Adequate visitor parking and safe circulation are provided that will not interfere with ongoing construction activities.

4. Temporary Work Trailers. A trailer or modular structure used as a construction office, or a temporary work site for employees of a business, subject to the following standards:

- a. There is an approved building permit for the permanent facility;
- b. The trailer or modular structure is only allowed during the construction of a subdivision, or permanent nonresidential structure or facility;
- c. The applicant has demonstrated that the construction office or temporary work site is a short-term necessity;
- d. The structure shall be approved for a maximum period of one year or until expiration of the building permit or other construction permit, whichever occurs first, unless an extension is granted; and
- e. The trailer or modular structure is removed prior to final building inspection or issuance of a certificate of occupancy for the permanent structure.

5. Outdoor Produce Displays. Outdoor fresh produce displays associated with an existing supermarket or grocery store. Displays consisting of a table or bin with fresh produce for purchase are allowed when placed adjacent to the storefront entrance during regular business hours. The location and placement may not obstruct emergency egress or pedestrian access.

F. Major Temporary Events and Temporary Uses. Major temporary activities, events, and uses require approval of an administrative permit and are limited to a specific duration, generally up to 12 months, unless otherwise specified below, or conditioned in the permit approval. Approval shall only be granted when all of the findings in subsection (G) of this section are met. Major temporary activities, events, and uses shall include:

1. Carnivals, Circuses, Fairs, and Amusement Places. Festivals, fairs, tent shows, exhibits, games of skill, or rides when conducted at an outdoor location, subject to the following standards:
 - a. Complies with operational standards contained in Chapter 5.40 CMC (Carnivals, Circuses, Fairs, and Amusement Places);
 - b. Is located a minimum of 300 feet from any residential property, except that schools, churches, and other local nonprofit educational or charitable organizations may be exempt from this requirement pursuant to CMC 5.40.040 (Location requirements); and
 - c. Has obtained a permit from the police department if the activity exceeds a total of seven days.
2. Location Filming. The use of a specific site for the filming of commercials, movies, videos, etc.
3. Major Promotional Events, Activities, Art Fairs, and Festivals. Special events and recurring activities that do not meet the conditions for minor promotional events in subsection (E)(2) of this section.
4. Model Homes. A model home or model home complex for an approved residential subdivision which has active construction permits. The models shall be converted to units for sale upon the completion of sales of all similar models or prior to acceptance of the subdivision improvements by the city.
5. Sidewalk Sale Events. A merchant or group of merchants within a defined shopping center or business district may display their merchandise for sale on tables, display racks, or platforms outside their place of business during normal business hours. Sidewalk sale events may be permitted for up to three consecutive days, once every three months, subject to the following standards:
 - a. Sidewalk sales shall be conducted in front of, or immediately adjacent to, the retail establishment. This excludes locations used for loading and unloading, landscaped areas, vehicular driving aisles, fire lanes, fire clearances, corner visibility areas adjacent to intersections and driveways, and areas necessary for emergency egress or disabled access to and from a building. A minimum four feet of unobstructed clearance shall be provided for all pedestrians passing the storefront and entrance.
 - b. Sidewalk sales held in the public right-of-way shall only be permitted in the Downtown Pedestrian (DP) or Downtown Mixed Use (DMX) Zoning Districts with approval of an encroachment permit.
 - c. No merchandise shall be left outside when the business is closed or displayed during periods of inclement weather. No merchandise may be stored or displayed on the ground.

d. The sidewalk sale merchandise to be sold must be directly related to the retail establishment and must be attended by an employee or employees of the business. Under no circumstance shall merchants unconnected with the permitted business be allowed to conduct a sidewalk sale.

6. Seasonal Holiday Sales. Christmas tree lots and pumpkin patches subject to the following standards. Stand-alone seasonal sales associated with other holidays are prohibited.

a. Sales of pumpkins may be conducted between October 1st and Thanksgiving Day, and sales of Christmas trees may be conducted between Thanksgiving Day and December 25th, seven days a week, and shall not operate between the hours of 10:00 p.m. and 8:00 a.m.;

b. Seasonal sales lots shall prevent nuisance factors on adjoining parcels, such as glare or direct illumination, dirt, dust, noise, odors, smoke, waste, and vibration;

c. Adequate parking facilities and vehicular and pedestrian circulation shall be provided;

d. Appropriate setbacks are provided to ensure adequate separation from adjoining land uses and a safe environment for vehicles and pedestrians; and

e. All trees, pumpkins, and other related sale items, as well as signs and temporary structures, shall be removed within 10 days after the end of sales, and the appearance of the site shall be returned to its original state. A monetary deposit shall be required, upon application, as set forth in the currently adopted city fee schedule to guarantee site cleanup.

7. Temporary Classrooms. A temporary classroom, including a manufactured or mobile unit, may be approved for a maximum of one year at an existing private school. An extension of one year may be granted by the planning division. A temporary structure proposed for a longer time period shall comply with all provisions of the development code applicable to a permanent structure on the same site.

8. Temporary Shelter. The use of a trailer, as defined in Vehicle Code Section 630, camper as defined in Vehicle Code Section 243, or recreational vehicle as defined in Health and Safety Code Section 18010, and a trailer coach as defined in Vehicle Code Section 635, is prohibited for residential purposes except for the following conditions:

a. If an existing home is damaged and determined to be uninhabitable by the building official, a trailer, camper, or RV may be occupied for a maximum one-year period, when a building permit has been issued and is active.

b. A trailer, camper, or recreational vehicle may be parked on a lot consistent with the regulations of CDC 18.160.160 (Parking and storage of recreational vehicles).

9. Vehicle Sales Events. Temporary events sponsored by a credit union or similar organization and held on private property such as a business park, with the property owner's authorization. These events shall be limited to a maximum of two consecutive days and shall not occur in the same location more than two times a year.

10. Used Goods Collection Centers. Used goods collection facilities at any location other than within a permanent building or structure shall comply with all of the following standards:

- a. The location of collection centers (trailers or containers) shall not obstruct any required parking spaces or disrupt either automobile or pedestrian traffic to or within the site;
- b. Collection centers shall be located so they are not visible from the public right-of-way;
- c. The location of collection centers shall not create a public or private nuisance;
- d. Only one trailer or container shall be permitted per parcel;
- e. Collection centers shall be operated by nonprofit organizations;
- f. Collection centers shall be kept clean, well maintained, neatly painted, and in good operating condition;
- g. Each collection center shall be clearly marked with the name of the nonprofit organization doing the collection and the local telephone number of the organization;
- h. Any litter or spillage shall be immediately removed and cleaned;
- i. The collection center shall be manned at all times the center is in use;
- j. The written consent of the property owner shall be provided at the time permission is requested to use a collection center; and
- k. Upon termination of a collection campaign or program, collection facilities shall be removed and the site restored to its original condition within 48 hours.

11. Similar Temporary Activities. A temporary activity, event, or use that the planning division determines is similar to the other activities listed in this section, and is compatible with the applicable zoning district and surrounding land uses.

G. Findings. Administrative permits for temporary events, activities, and uses, in accordance with Chapter 18.420 CDC (Administrative Permits), shall be approved only when all of the following findings can be made:

1. The establishment, maintenance, or operation of the activity, event, or use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the proposed use.
2. The activity, event, or use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
3. Approved measures for the removal of the activity, event, or use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed.
4. The approval includes provisions to ensure that each site occupied by a temporary activity, event, or use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the activity, event, or use and shall thereafter be used in compliance with the provisions of the development code. The review authority may require an appropriate security deposit prior to the initiation of the activity, event, or use to ensure proper cleanup after the use is terminated.

5. The time and duration of the temporary use or event is limited and appropriate for the purpose, and does not result in a nuisance or affect the public health, welfare, or safety of the community.

6. Additional conditions may be required, as appropriate, to minimize any adverse impacts of the temporary activity, event, or use.

H. Prohibited Temporary Activities, Uses, and Structures.

1. Privately Owned Vehicle Sales. The parking of privately owned automobiles in commercial, industrial, or public parking lots for the express purpose of offering the vehicle for sale is prohibited. This does not apply to permanent automobile/vehicle sales and leasing uses.

2. Shipping and Cargo Containers. Temporary structures including shipping and storage containers shall be prohibited as temporary stand-alone structures and are only permitted as building components of permanent structures subject to design and site review, with particular attention paid to roofing, exterior treatment, architecture, compatibility with adjacent buildings, and placement on a permanent foundation.

Attachment F

18.415.100 Decision and findings.

A. Decision and Findings. The review authority shall consider the recommendations from the design review board and may approve, conditionally approve, or deny the application after finding that:

1. The project is consistent with the general plan; and
2. The project meets the criteria in CDC 18.415.080 (Design criteria).

B. In approving a design and site review, the review authority may impose conditions of approval as deemed necessary to:

1. Ensure that the proposal conforms to the general plan and other applicable plans or policies adopted by the city council; and
2. Ensure that the proposal meets the requirements of the applicable zoning district, applicable provisions in the Concord Municipal Code, and other standards in the development code.

Attachment G

18.505.020 Time limits and extensions.

A. Time Limits.

1. Unless conditions of approval or other provisions of the development code establish a different time limit, any planning permit or approval granted in compliance with Division VII of this title (Permits and Permit Procedures) that is not exercised within 24 months of its approval shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section (Extensions) or the applicant can demonstrate that they have diligently attempted to exercise the permit but were unable due to circumstances beyond their control (i.e., failure to obtain required permit from other governmental agency).

2. The planning permit shall not be deemed "exercised" until:

- a. A building or grading permit has been issued and actual construction diligently commenced thereon and has not expired;
- b. A certificate of occupancy has been issued; or
- c. The use is established (in operation) at the site.

3. For the purposes of the development code, "actual construction" shall mean the placing of construction materials on the site in a permanent manner consistent with approved plans and permits, including the installation of public or private improvements; provided, that in all cases construction work shall be diligently pursued until completion of the subject structure.

4. The planning permit or approval shall remain valid after it has been exercised as long as the building permit (or other applicable permit) is active for the project, or a final building inspection or certificate of occupancy has been issued.

5. If a project is to be developed in preapproved phases, each subsequent phase, until 50 percent or more of the site is developed, shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the planning permit, or the planning permit shall expire and be deemed void.

6. If the project also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and all planning permit approvals shall be valid for the life of the tentative map.

B. Extensions. Upon request by the applicant, the city may extend the time for an approved planning permit to be exercised in the following manner:

1. The permittee shall file a written request for an extension of time with the planning division at least 10 days before the expiration of the permit, together with the filing fee required by the city's fee schedule.
2. The applicable review authority shall hold a public hearing on any proposed extension in compliance with Chapter 18.500 CDC (Public Hearings).

3. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the applicable review authority determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the review authority may grant a time extension for up to an additional 24 months from the date of the decision to extend the permit; provided, that the review authority first finds that:

a. The requested extension is consistent with the general plan and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered;

b. The findings required by the original approval remain valid; and

c. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.) to ensure that the requested extension would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.

4. Exception. If the project approval includes the approval of a tentative map, which is subject to additional time extensions, all planning permit approvals shall be valid for the life of the tentative map.

Attachment H

18.540.090 Limitation of actions.

Except as otherwise provided in Government Code Section 65009, any court action or proceedings to attack, review, set aside, void or annul any decision on matters listed in this chapter, including, but not limited to, rezoning or reclassification of property, or concerning any of the proceedings, acts or determinations taken, done or made prior to such decisions, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service is made on the city after the effective date of such decisions.

Exhibit A

18.20.020 Use classifications.

Personal Services.

A. General. An establishment that provides recurrently needed nonmedical services of a personal nature, which may involve the retail sales of products related to the services provided. This classification applies to establishments with a primary focus of household and consumer product repair, as opposed to a retail sales establishment that offers service and repair of their merchandise as an ancillary use. (See "General" under "Retail Sales.") Examples include:

1. Barber and beauty shops.
2. Clothing rental.
3. Day spas.
4. Dry cleaning pick-up stores with limited equipment.
5. Home electronics and small appliance repair.
6. Laundromats (self-service laundries).
7. Massage therapy.
8. Portrait photography.
9. Shoe repair shops.
10. Tailors and seamstresses.
11. Tanning salons.
12. Television and radio repair.
13. Travel agencies.
14. Video store.

B. Improvement or Instructional. An establishment that provides instructional services or facilities for personal improvement including fine arts, crafts, dance or music studios, exercise or fitness studios, learning centers, driving schools, photography, diet center, and martial arts. This classification does not include vocational training.

C. Restricted. An establishment that provides personal services that tend to have a negative economic impact upon surrounding areas and may need to be dispersed to minimize their adverse impacts. Examples include:

1. Bail bonds.
- ~~2. Fortune tellers.~~
- ~~3. Hookah lounges.~~

~~4.~~ 2. Massage parlors.

~~5.~~ Palm and card readers.

~~7.~~ 3. Pawn shops.

~~8.~~ Psychic readers.

~~9.~~ 4. Spas and hot tubs for hourly rental.

~~10.~~ 5. Tattoo and body piercing services.

Exhibit B

18.40.020 Table 18.40.020 – Office and commercial districts – Allowed uses and permit requirements.

A. Applicability. Table 18.40.020 identifies the uses allowed by the development code in each office and commercial zoning district and the type of permit required to establish each use. See CDC 18.25.030(B) or Division VII of this title (Permits and Permit Procedures). Additional requirements may apply pursuant to Division IV (Development Standards) and Division V (Standards for Specific Uses) of this title.

Table 18.40.020 Office and Commercial Districts Allowed Uses and Permit Requirements						ZC – Permitted Use, Zoning Clearance AP – Administrative Permit Required MP – Minor Use Permit Required UP – Use Permit Required – Use Not Allowed
Land Use Classifications	Permit Required by District					Additional Requirements
	CO	CMX	NC	SC	RC	
Office, Commercial, and Retail Uses						
Adult Day Care Center	–	ZC ⁽⁵⁾	ZC ⁽⁵⁾	ZC	ZC	
Adult-Oriented Business	–	–	–	–	–	Chapter 18.210 CDC, Adult-Oriented Businesses
Animal Services						
Boarding, Kennel	–	UP	UP	MP	MP	
Dog Day Care, Training	–	ZC	ZC ⁽²⁾	ZC	ZC	
Grooming	–	ZC	ZC ⁽²⁾	ZC	ZC	
Hospital, Veterinary Clinic	ZC	ZC	ZC ⁽²⁾	ZC	ZC	
Antique, Collectible Store	–	ZC ⁽⁴⁾	ZC	ZC	ZC	
Automobile Sales and Rental/Leasing						
Auction	–	–	–	ZC	–	
Brokers, Office Only	ZC	ZC	ZC	ZC	ZC	
Brokers, Office with Vehicle Display	AP	AP	–	ZC	ZC	
Dealership, New	–	–	–	UP	ZC	
Dealership, Used	–	–	–	ZC	–	

Dealership, Motorcycles	-	-	-	ZC	ZC	
Rental	-	-	-	AP	MP	
Automobile Services and Repair						
Car Wash, Attended	-	-	UP	AP	UP	CDC 18.200.090, Gas stations and car washes
Car Wash, Unattended	-	-	-	UP	-	CDC 18.200.090, Gas stations and car washes
Gas Station	-	-	UP	UP	UP	CDC 18.200.090, Gas stations and car washes
Maintenance Services	-	UP	UP	ZC	ZC	
Major Repair/Body Work	-	-	-	ZC	-	
Minor Repair	-	-	UP	ZC	AP	
Banks and Financial Services						
Bank, Credit Union	-	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Bank with Drive-Through Service	-	UP	UP	UP	MP	CDC 18.200.060, Drive-through facilities
Check Cashing Business	-	-	-	-	-	
Building Materials Sales and Services						
No Outdoor Storage	-	-	ZC	ZC	ZC	
With Outdoor Storage	-	-	-	AP	UP	CDC 18.200.160, Outdoor sales and displays
Business Support Services	ZC	ZC ⁽³⁾	ZC ^(2, 3)	ZC ⁽³⁾	ZC ⁽³⁾	
Catering Service	-	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC	ZC	
Eating and Drinking Establishments						
Bar, Night Club, Lounge	-	UP	UP	UP	UP	CDC 18.200.080, Entertainment uses
Food Vendor Group Site	-	MP	MP	MP	MP	CDC 18.200.210, Food vendor group sites
Micro-Brewery/Distillery	-	-	-	MP	MP	CDC 18.200.040, Alcoholic beverage sales
Micro-Brewery/Distillery, Large ⁽⁶⁾	-	-	-	UP	UP	CDC 18.200.040, Alcoholic beverage sales
Restaurant, Full Service	-	AP	AP	UP	ZC	CDC 18.200.040, Alcoholic beverage

						sales
Restaurant, Limited Service	–	ZC ⁽⁴⁾	ZC	AP	ZC	
Restaurant, with Drive-Through	–	UP	UP	UP	UP	CDC 18.200.060, Drive-through facilities
Restaurant, with Live Entertainment	–	–	UP	UP	UP	CDC 18.200.080, Entertainment uses
Tasting Room	–	–	–	AP	AP	CDC 18.200.040, Alcoholic beverage sales
Fitness Facility, Health Club	–	AP	AP ⁽²⁾	AP ⁽²⁾	AP	
Food, Beverage Sales						
Convenience Store, no Alcohol Sales	–	ZC ⁽⁴⁾	ZC	ZC	ZC	
Convenience Store, with Alcohol Sales	–	UP	UP	–	UP	CDC 18.200.040, Alcoholic beverage sales
Grocery Store	–	ZC ⁽⁴⁾	ZC	ZC	ZC	
Liquor Store	–	–	UP	–	UP	CDC 18.200.040, Alcoholic beverage sales
Hotel, Motel	–	UP	UP	UP	UP	
Maintenance Services						
Office with No Outdoor Storage or Activities	–	–	–	ZC	–	
Office with Outdoor Storage or Activities	–	–	–	AP	–	
Nursery, Preschool, Childcare	UP	UP	UP	AP	AP	CDC 18.200.050, Child day care facilities
Offices						
Administrative, Information Processing	ZC	ZC	–	ZC	ZC	
Medical, Dental	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Professional	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Personal Services						
General	ZC	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC ⁽²⁾	
Improvement, Instructional	–	ZC	ZC ⁽²⁾	ZC	ZC	

Restricted	-	-	MP	MP	MP	
Repair Service, Appliance and Small Equipment	-	-	UP	ZC	-	
Retail Sales						
Big Box	-	UP	UP	UP	UP	
General	-	ZC ⁽⁴⁾	ZC	ZC	ZC	
Nursery, Garden Center	-	UP	ZC	ZC	ZC	CDC 18.200.160, Outdoor sales and displays
Restricted	-	-	MP	MP	MP	
Retail Sales with Drive-Through	-	UP	UP	UP	UP	CDC 18.200.060, Drive-through facilities
Secondhand Sales	-	AP	AP	AP	-	

Business Park and Industrial Uses						
Auto Wrecking, Dismantling Yard	-	-	-	-	-	
Contractors, Special Trade						
Cabinet Shop	-	-	-	ZC	-	
Contractor Office, No Outdoor Storage	ZC	ZC	-	ZC	-	
Contractor Yard, with Outdoor Storage	-	-	-	ZC	-	
Fleet-Based Service	-	-	-	ZC	UP	
Freight and Truck Terminal	-	-	-	-	-	
Heavy Vehicle and Large Equipment, Sales/Rental, Service, and Repair						
Commercial Vehicles and Equipment	-	-	-	AP	-	
Recreational Vehicle	-	-	-	AP	-	
Laboratory, Research, and Development	ZC	AP	-	ZC	-	
Manufacturing, Processing						
Artisan/Custom Product	-	-	-	ZC	-	
Industry, Heavy	-	-	-	-	-	
With No Outdoor Storage or Activities	-	-	-	ZC	-	
With Outdoor Storage or		-	-	AP	-	

Activities						
Warehouse Show Room with Assembly and Sales	-	-	-	ZC	-	
Media Production Facility	ZC	ZC	-	ZC	-	
Storage						
Hazardous Materials	-	-	-	-	-	
Self-Storage Facility, Mini-Storage	-	-	-	UP	-	
Vehicle	-	-	-	UP	-	
Towing Services	-	-	-	UP	-	
Warehouse, No Outdoor Storage	-	-	-	ZC	-	
Warehouse, with Outdoor Storage	-	-	-	ZC	-	
Wholesaling, Distribution	-	-	-	AP	-	
Public/Quasi-Public and Recreational Uses						
Airport	-	-	-	-	-	
Ambulance Service	-	UP	-	AP	-	
Cemetery, Columbarium, Mausoleum	-	-	-	-	-	
Conference, Convention Facility	UP	-	-	-	UP	
Cultural Institution	-	UP	UP	UP	UP	
Emergency and Homeless Shelter	-	-	-	-	-	CDC 18.200.070, Emergency and homeless shelters
Farmers' Market	-	-	UP	UP	UP	
Funeral Parlor, Mortuary	-	-	UP	UP	UP	
Government Office	ZC	ZC	ZC	ZC	ZC	
Heliport	-	-	-	-	-	
Library	ZC	ZC ⁽²⁾	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Medical Services						
Hospital, Medical Center	-	-	-	-	-	
Medical Marijuana Dispensary	-	-	-	-	-	
Medical Clinic	ZC	-	ZC ⁽²⁾	ZC ⁽²⁾	ZC	

Nursing Facility/Extended Care	-	UP	UP	UP	-	
Urgent Care Facility	ZC	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC	ZC	
Meeting Facility, Public/Private	UP	UP	UP	UP	UP	
Military	-	-	-	-	-	
Parking Facility	AP	-	AP	AP	AP	
Public Maintenance and Service Facility	-	-	-	AP	-	
Recreational Facilities						
Bingo Hall	-	-	-	-	UP	
Commercial Recreation, Indoor	-	AP ⁽⁴⁾	AP	UP	ZC	
Golf Course, Country Club	-	-	-	-	-	CDC 18.200.130, Mechanical and electronic games
Park and Recreation Facility	-	-	-	-	-	
Residential Recreation Facility	-	AP ⁽⁵⁾	-	-	-	
Sports and Entertainment, Assembly	-	-	UP	-	UP	CDC 18.200.080, Entertainment uses
Sports and Recreation Facility	-	-	UP	-	UP	CDC 18.200.130, Mechanical and electronic games
Recycling Facilities						
Small Collection Facility	-	-	AP	AP	AP	CDC 18.200.170, Recycling facilities
Large Collection Facility	-	-	-	UP	-	CDC 18.200.170, Recycling facilities
Processing Facility	-	-	-	-	-	CDC 18.200.170, Recycling facilities
Religious Facility	UP	UP	UP	-	-	
Schools						
Elementary, Middle, Secondary	-	MP	-	-	-	
College, University	-	MP	-	-	-	
Trade School,	AP	AP	AP	AP	AP	

Vocational Training						
Social Service Facility, Community Organization	AP	AP	AP	AP	-	
Theater, Auditorium	-	UP	UP	-	UP	CDC 18.200.130, Mechanical and electronic games
Utility Facility, Transmission Towers	-	-	ZC	ZC	ZC	
Wireless Telecommunication Facility – CDC 18.205.010 – 18.205.050, Wireless Communication Facilities						
Residential Uses						
Bed and Breakfast Inn	-	UP	-	-	-	
Dwelling, Dwelling Unit, Housing Unit						
Single-Family, Detached	ZC	-	-	-	-	
Single-Family, Detached – Small Lot Subdivision	UP	UP	-	-	-	
Single-Family, Attached	ZC	ZC	-	-	-	
Secondary Living Unit	AP	AP	-	-	-	CDC 18.200.180, Secondary living units
Duplex	ZC	ZC	-	-	-	
Multifamily	UP	UP	UP ⁽¹⁾	-	-	
Family Day Care Home, Small	ZC ⁽⁵⁾	ZC ⁽⁵⁾	-	-	-	CDC 18.200.050, Child day care facilities
Family Day Care Home, Large	MP ⁽⁵⁾	MP	-	-	-	CDC 18.200.050, Child day care facilities
Group Housing	UP	UP	-	-	-	
Home-Based Business	-	ZC ⁽⁵⁾	ZC ⁽²⁾	-	-	CDC 18.200.100, Home-based businesses
Live/Work Unit	-	ZC ⁽⁵⁾	-	-	-	CDC 18.200.110, Live/work or work/live units
Mixed-Use Projects	UP	AP	UP	-	-	
Mobile Home Park	-	-	-	-	-	
Residential Care Facility, Small	ZC ⁽⁵⁾	ZC ⁽⁵⁾	-	-	-	
Residential Care Facility,	-	MP	-	-	-	

Large						
Residential Facility for Seniors, Assisted Living	-	UP	UP	-	-	
Work/Live Unit	-	-	-	AP	-	CDC 18.200.110, Live/work or work/live units

Open Space and Agricultural Uses						
Companion Animal, Horses, Fowl	-	-	-	-	-	
Community Garden	AP	AP	AP	AP	AP	
Crop Production, Orchard, Vineyard	ZC	ZC	ZC	ZC	ZC	
Livestock, Grazing	-	-	-	-	-	
Mining and Quarrying	-	-	-	-	-	

- (1) Not allowed on ground floor.
 - (2) Allowed to occupy up to 20 percent gross area of shopping center or multi-tenant building or 20 percent street frontage of one building.
 - (3) No outdoor facilities, storage, or activities are allowed.
 - (4) Requires a minimum lot size of 10,000 square feet.
 - (5) Allowed with residential use only.
 - (6) A facility which exceeds 3,000 square feet.
- [Ord. 14-6 §§ 3, 4; Ord. 13-5; Ord. 12-5; Ord. 12-4. DC 2012 § 122-131].

Exhibit C

18.200.130 Mechanical and electronic games.

Where allowed by Division II of this title (Zoning Districts – Uses and Standards), establishments that operate mechanical and electronic games, either as a principal use or ancillary to a principal use, such as a restaurant or retail establishment, shall comply with the requirements of this section.

~~A. Purpose. The following requirements control the location and hours of operation of mechanical and electronic games centers to prevent school-aged children from playing the games during school hours and to discourage minors from congregating in areas close to commercial establishments that sell alcoholic beverages.~~

~~B. Applicability. These requirements apply to all establishments that install, operate, or maintain more than four mechanical and electronic games, including computers used for entertainment, or establishments that have 25 percent or more floor area (excluding areas inaccessible to the public such as kitchens and storage rooms) devoted to amusement and electronic games, whichever is more restrictive.~~

~~C. Location. Establishments with amusement and electronic games shall be located a minimum distance away from the following:~~

- ~~1. Five hundred feet from any residential (RS-) district boundary or residential use;~~
- ~~2. One thousand feet from any educational, religious, or cultural institutions, public parks, public buildings, and boys' and girls' clubs or other youth organizations; or~~
- ~~3. Five hundred feet from a liquor store, bar, or cocktail lounge.~~

~~The distance shall be measured in a straight line from the main public entrance of the facility to the district boundary, property line of school sites, and other institutions, or to the main entrance of the liquor store or cocktail lounge. Exits not limited to emergency use only shall generally be directed away from a residential (RS-) district adjoining the site.~~

~~D. Permit Requirements. Where allowed by Division II of this title (Zoning Districts – Uses and Standards), and as required by this section, a minor use permit or use permit (Chapter 18.435-GDC (Minor Use Permits and Use Permits)) shall be required as follows:~~

- ~~1. Minor Use Permit. A minor use permit shall be required for establishments that propose four or more mechanical or electronic games as an ancillary use, if they occupy less than 25 percent of the floor area.~~
- ~~2. Use Permit. A use permit shall be required for all other establishments that install or operate four or more mechanical or electronic games.~~

~~E. Chief of Police Recommendation. All applications shall be referred to the chief of police for review and comment. In addition to the general authority to deny a minor use permit or use permit established in Chapter 18.435-GDC (Minor Use Permits and Use Permits), the review authority shall deny an application based upon the chief of police's recommendation, for any of the following reasons:~~

~~1. The applicant has been convicted of, or has pled no contest to, one or more of the following offenses:~~

~~a. A crime requiring registration under Penal Code Section 290;~~

~~b. Violation of Penal Code Section 311.2, 311.4, 311.5, 315, 316, 318, 647(a), 647(b), or 647(d), or of any comparable section of any other state's statutes;~~

~~c. Violation of any provision of Penal Code Part I, Title 9C.10 (Penal Code Section 330, et seq.), or of any comparable section of any other state's statutes; or~~

~~d. A crime requiring registration under Health and Safety Code Section 11590.~~

~~2. The applicant has knowingly made any false, misleading, or fraudulent statement of facts in the permit application or any other document required by the city.~~

~~3. The applicant has had a similar license revoked for good cause within the last year, unless the applicant shows a material change in circumstances since the date of revocation.~~

~~F. General Requirements.~~

~~1. Adult Manager Required. At least one adult manager (18 years of age or 21 or over if serving alcohol) shall be on the premises during the time the mechanical and electronic games are open to the public.~~

~~2. Manager's License. The permit shall be reviewed and approved by the chief of police. A use permit or minor use permit shall not be approved if the chief of police finds that the applicant has been convicted of or committed any of the offenses in subsection (E)(1) of this section.~~

~~3. Hours of Operation for Minors Under 18 Years of Age. Operators of establishments with mechanical and electronic games are prohibited from allowing any minor to play any mechanical or electronic game located on any premises open to the public during the following times:~~

~~a. Between 7:00 a.m. and 3:30 p.m. on weekdays during the academic school year of the Mt. Diablo Unified School District, unless the weekday is a school holiday for the District.~~

~~b. After 10:00 p.m. Sunday through Thursday throughout the year.~~

~~c. After midnight on any Friday or Saturday throughout the year.~~

~~4. Hours Posted. All establishments subject to this section shall post, in a conspicuous place near the games, a notice with the above time restrictions, including the statement: "Pursuant to CDC 18.200.130." The lettering on the notice shall be at least two inches in height, of one-half inch stroke, and in a color contrasting with the background.~~

~~5. Conditions. The review authority may impose reasonable restrictions on the physical design, location, and operation of an establishment with mechanical and electronic games in order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.~~

~~6. Exemptions. This section does not apply to coin-operated amusement rides primarily designed for non-school-aged children. [Ord. 12-4, DC 2012 § 122-626].~~

A. Purpose. The following requirements apply to businesses which employ mechanical or electronic games in order to minimize nuisances that may be detrimental to the public health, safety, and welfare of the surrounding community.

B. Applicability. These requirements apply to all establishments that operate or maintain five or more mechanical and/or electronic games.

C. Permit Requirements. An administrative permit shall be required for commercial establishments that operate five or more mechanical or electronic games.

D. Conditions. The review authority may impose reasonable restrictions on the physical design, location, parking, lighting, and operation of an establishment with mechanical and electronic games in order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.

E. Exemptions. This section does not apply to vintage mechanical or electronic games for sale at an antique or collectible store, or devices used for educational purposes at a school, museum, cultural center, or public library.

F. Adult Manager Required. At least one adult manager (18 years of age or 21 or over if serving alcohol) shall be on the premises during the time the mechanical and electronic games are open to the public. The onsite manager shall be responsible for ensuring compliance with this Section and any conditions imposed; this obligation is in addition to the compliance obligations of the property owner, proprietor, and any other responsible parties.

H. Conflicts. In the event of any conflict between this Section 18.200.130 (Mechanical and electronic games), other provisions the Development Code, conditions imposed on a particular use or establishment, or any provisions of the Concord Municipal Code, the more restrictive shall prevail.

Exhibit D

18.200.050 Child day care facilities.

Where allowed by Division II of this title (Zoning Districts – Uses and Standards), child day care facilities, including small and large family day care homes, child day care centers, nursery schools, and preschools, shall comply with the requirements of this section.

A. Purpose. The following requirements provide location and operational standards for child day care facilities, in compliance with state law, to recognize the needs of childcare providers and minimize effects on adjoining properties. All facilities shall be licensed in compliance with the requirements of the California Department of Social Services.

B. Applicability. Child day care facilities shall be allowed as follows:

~~1. Small Family Day Care Home (Eight or Fewer Children). (See CDC 18.20.020, "Family day care home.") A small family day care home shall be allowed within a single-family residence when operated by a resident of the property. The small family day care home shall be in addition to the residential use of the property.~~

~~2. Large Family Day Care Home (Seven to 14 Children). (See CDC 18.20.020, "Family day care home.") A large family day care home shall be allowed within a single-family residence when operated by a resident of the property. The large family day care home shall be in addition to the residential use of the property.~~

1. "Small family day care home" means a home that provides family day care for up to six children, or for up to eight children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.44 and as defined in regulations (see 22 California Administrative Code Sections 102352(f)(1)(A) and 102416.5(b)). These capacities include children under age ten who live in the licensee's home.

2. "Large family day care home" means a home that provides family day care for up to twelve children, or for up to fourteen children if certain criteria are met, as set forth in California Health and Safety Code Section 1597.465 and as defined in state regulations (see 22 California Administrative Code Sections 102352(f)(1)(B) and 102416.5(c)). These capacities include children under age ten who live in the licensee's home and the assistant provider's children under age ten who do not live in the licensee's home.

3. Child Day Care Center, Preschool, or Nursery School (15 or More Children). Child day care centers, preschools, or nursery schools shall be allowed subject to the permit specified by Division II of this title (Zoning Districts – Uses and Standards).

C. Permit Requirements.

1. Small Family Day Care Home. The use of a single-family residence as a small family day care home shall be considered a residential use of property for the purposes of the development code, and no permit shall be required.

2. Large Family Day Care Home. The use of a single-family residence as a large family day care home shall be considered a residential use of property for the purposes of the development code and may be operated, subject to first obtaining a minor use permit in

accordance with Chapter 18.435 CDC (Minor Use Permits and Use Permits), except as follows:

- a. Not less than 10 days prior to the date on which a decision will be made on the application, the planning division shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home, in accordance with CDC 18.500.040 (Exception to required public hearing);
- b. No hearing shall be held before a decision is made on the application, unless a hearing is requested by the applicant or other affected person;
- c. If a public hearing is not requested, the planning division may approve the application without holding a public hearing;
- d. If a hearing is held in accordance with Chapter 18.500 CDC (Public Hearings), any interested person may appeal the decision of the zoning administrator in accordance with the provisions of Chapter 18.510 CDC (Appeals and Calls for Review);
- e. For an appeal involving a large family day care home only, the notice of hearing which is required to be provided by any other section of the development code shall be limited to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. Notwithstanding any other provision of the development code, such notice shall not be provided to owners of property beyond such 100-foot radius.

3. Child Day Care Center, Preschool, or Nursery School. Child day care centers, preschools, or nursery schools shall be allowed subject to the permit required by Division II of this title (Zoning Districts – Uses and Standards).

D. General Requirements. The following standards shall apply to all large family day care homes, child day care centers, preschools, and nurseries:

1. Parking and Loading. The following parking requirements shall be provided in addition to the parking requirements in Chapter 18.160 CDC (Parking, Loading, and Access):
 - a. A minimum of one off-street parking space per employee;
 - b. For large family day care homes, employee parking shall be in addition to the off-street parking required for the residential use. Driveways may be used for employee parking, provided the driveway is no less than 18 feet in length, measured from the property line or back of sidewalk, whichever is less; and
 - c. A safe area for pick-up and delivery of children shall be provided. This area shall only be allowed in a driveway, in an off-street parking area, or other on-site area with direct access to the facility.
2. Noise. The location of the facility, including outdoor play areas, shall be sited to minimize noise impacts on neighboring properties. Noise levels shall comply with the standards identified in the general plan.
3. Outdoor Play Areas. Outdoor play areas shall be:

a. Enclosed by a natural barrier, wall, solid fence, or other solid structure at least six feet in height; and

b. Adequately separated from driveways, streets, and parking.

4. Building and Fire Codes. All facilities shall comply with all applicable city, county, and state requirements, including the Uniform Building Code and Fire Code.

E. Findings. The following findings shall be made for approval of a minor use permit or use permit for a large family day care home, child day care center, preschool, or nursery school, in addition to the findings required in Chapter 18.435 CDC (Minor Use Permits and Use Permits):

1. The facility meets all of the standards specified in this section;

2. The facility meets applicable state licensing requirements;

3. Drop-off facilities avoid interference with traffic and promote the safety of children;

4. The facility meets applicable fire and building codes;

5. Additional findings for large family day care homes:

a. The primary use of the home is as a residence;

b. One off-street parking space is provided for each nonresident employee;

c. The facility avoids noise impacts to neighboring properties by design and layout of the site; and

d. The facility is not within 300 feet of any other such licensed facility.

F. Appeals. Any interested person may appeal the decision on the minor use permit or use permit in accordance with the provisions of Chapter 18.510 CDC (Appeals and Calls for Review).

Exhibit E

18.200.200 Temporary events, uses, and structures.

A. Purpose. This section establishes procedures, standards, and requirements for the approval of temporary activities, events, and uses which are intended to operate on a short-term basis for a limited period. Such activities, events, and uses may not meet the typical use or development standards for a particular zoning district, but may be acceptable due to their temporary nature. Temporary activities, events, and uses include special events provided for the enjoyment of the public, sales and promotional activities intended to serve commercial interests, seasonal activities, temporary construction related activities, and similar temporary activities, events, and uses.

B. Applicability. This section shall apply to temporary activities, events, and uses which are established, operated, and conducted as required by this section. This section does not apply to vendors, which are subject to Chapter 12.50 CMC (Vendors).

C. Permit Requirements. Unless otherwise specified in this section, temporary events, activities, and uses shall require the following approvals. Other temporary or short-term activities that do not fall within these categories shall comply with Division II (Zoning Districts – Uses and Standards), Division IV (Development Standards), and Division V (Standards for Specific Uses) of this title.

1. Exempt Temporary Uses. Minor temporary events, activities, and uses are exempt from the requirements of this section when conducted in accordance with the limitations and conditions described below.

2. Minor Temporary Uses. Minor temporary activities, events, and uses shall require a zoning clearance determination, in accordance with Chapter 18.410 CDC (Zoning Clearance).

3. Major Temporary Uses. Major temporary activities, events, and uses are allowed subject to approval of an administrative permit in accordance with Chapter 18.420 CDC (Administrative Permits), for up to 12 months unless otherwise specified or conditioned in the permit approval. All administrative permit approvals shall be based on compliance with the findings in subsection (G) of this section.

D. Exempt Temporary Uses. Exempt temporary activities, events, and uses conducted in accordance with the limitations and conditions described below shall include:

1. Emergency Facilities. Emergency public health and safety facilities and activities.

2. Garage Sales. No property may have more than three sales per year, and no sale may exceed two consecutive days.

3. Public Property. Activities which are authorized by the city and conducted on city owned properties. Such activities may be subject to CMC 4.05.040 (Permits for use of parks).

E. Minor Temporary Uses. Minor temporary activities, events, and uses conducted in accordance with the limitations and conditions described below shall include:

1. Construction Yards – On-Site. On-site construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the

construction activities, or expiration of the building permit or other permit authorizing the construction project, whichever occurs first.

2. Minor Promotional Events. Special events that meet the following criteria, as applicable, when the planning division determines that the event or activity will not impact an adjacent residential area:

- a. Is conducted within an established shopping center;
- b. Does not occur after 9:00 p.m.;
- c. Is not attended by more than 100 persons;
- d. Does not involve the use of a tent, trailer, vehicle, freestanding canopy, stage, or temporary structure;
- e. ~~d.~~ Does not have amplifying equipment ~~within 300 feet of a residential area;~~ and
- f. ~~e.~~ Does not occur for more than three consecutive days in the same location more than once every six months.

3. Real Estate Sales Offices. Temporary real estate sales offices for the initial sale of property in new residential developments, subject to the following standards:

- a. Is located within a new residence that is part of the development or within a temporary building; and
- b. Adequate visitor parking and safe circulation are provided that will not interfere with ongoing construction activities.

4. Temporary Work Trailers. A trailer or modular structure used as a construction office, or a temporary work site for employees of a business, subject to the following standards:

- a. There is an approved building permit for the permanent facility;
- b. The trailer or modular structure is only allowed during the construction of a subdivision, or permanent nonresidential structure or facility;
- c. The applicant has demonstrated that the construction office or temporary work site is a short-term necessity;
- d. The structure shall be approved for a maximum period of one year or until expiration of the building permit or other construction permit, whichever occurs first, unless an extension is granted; and
- e. The trailer or modular structure is removed prior to final building inspection or issuance of a certificate of occupancy for the permanent structure.

5. Outdoor Produce Displays. Outdoor fresh produce displays associated with an existing supermarket or grocery store. Displays consisting of a table or bin with fresh produce for purchase are allowed when placed adjacent to the storefront entrance during regular business hours. The location and placement may not obstruct emergency egress or pedestrian access.

F. Major Temporary Events and Temporary Uses. Major temporary activities, events, and uses require approval of an administrative permit and are limited to a specific duration, generally up to 12 months, unless otherwise specified below, or conditioned in the permit approval. Approval shall only be granted when all of the findings in subsection (G) of this section are met. Major temporary activities, events, and uses shall include:

1. Carnivals, Circuses, Fairs, and Amusement Places. Festivals, fairs, tent shows, exhibits, games of skill, or rides when conducted at an outdoor location, subject to the following standards:

a. Complies with operational standards contained in Chapter 5.40 CMC (Carnivals, Circuses, Fairs, and Amusement Places);

b. Is located a minimum of 300 feet from any residential property, except that schools, churches, and other local nonprofit educational or charitable organizations may be exempt from this requirement pursuant to CMC 5.40.040 (Location requirements); and

c. Has obtained a permit from the police department if the activity exceeds a total of seven days.

2. Location Filming. The use of a specific site for the filming of commercials, movies, videos, etc.

3. Major Promotional Events, Activities, Art Fairs, and Festivals. Special events and recurring activities that do not meet the conditions for minor promotional events in subsection (E)(2) of this section.

4. Model Homes. A model home or model home complex for an approved residential subdivision which has active construction permits. The models shall be converted to units for sale upon the completion of sales of all similar models or prior to acceptance of the subdivision improvements by the city.

~~5. Outdoor Sales and Displays. Temporary promotional sales and outdoor displays, associated with a permanent on-site use, may occur in nonresidential districts for 30 consecutive days within a 12-month period, subject to the following standards:~~

~~a. Merchandise displays are located in close proximity to the primary structure where the items are sold indoors;~~

~~b. Merchandise is displayed in a planned, orderly, and attractive manner as an extension of the window display and shall not constitute an expansion of the retail floor area (such as clothing racks);~~

~~c. Merchandise displays do not interfere with adjacent business displays, storefronts, access, or visibility;~~

~~d. Merchandise displays occupy a fixed, specifically approved, and defined location that does not disrupt pedestrian traffic, obstruct access to parking areas or driveways, or encroach onto landscape areas;~~

~~e. Display fixtures are of good quality and durable materials and construction;~~

~~f. Merchandise displays do not exceed a height of eight feet above the sidewalk; and~~

~~g. Displays are removed during nonbusiness hours, unless otherwise approved.~~

5. Sidewalk Sale Events. A merchant or group of merchants within a defined shopping center or business district may display their merchandise for sale on tables, display racks, or platforms outside their place of business during normal business hours. Sidewalk sale events may be permitted for up to three consecutive days, once every three months, subject to the following standards:

a. Sidewalk sales shall be conducted in front of, or immediately adjacent to, the retail establishment. This excludes locations used for loading and unloading, landscaped areas, vehicular driving aisles, fire lanes, fire clearances, corner visibility areas adjacent to intersections and driveways, and areas necessary for emergency egress or disabled access to and from a building. A minimum four feet of unobstructed clearance shall be provided for all pedestrians passing the storefront and entrance.

b. Sidewalk sales held in the public right-of-way shall only be permitted in the Downtown Pedestrian (DP) or Downtown Mixed Use (DMX) Zoning Districts with approval of an encroachment permit.

c. No merchandise shall be left outside when the business is closed or displayed during periods of inclement weather. No merchandise may be stored or displayed on the ground.

d. The sidewalk sale merchandise to be sold must be directly related to the retail establishment and must be attended by an employee or employees of the business. Under no circumstance shall merchants unconnected with the permitted business be allowed to conduct a sidewalk sale.

6. Seasonal Holiday Sales. Christmas tree lots and pumpkin patches subject to the following standards. Stand-alone seasonal sales associated with other holidays are prohibited.

a. Sales of pumpkins may be conducted between October 1st and Thanksgiving Day, and sales of Christmas trees may be conducted between Thanksgiving Day and December 25th, seven days a week, and shall not operate between the hours of 10:00 p.m. and 8:00 a.m.;

b. Seasonal sales lots shall prevent nuisance factors on adjoining parcels, such as glare or direct illumination, dirt, dust, noise, odors, smoke, waste, and vibration;

c. Adequate parking facilities and vehicular and pedestrian circulation shall be provided;

d. Appropriate setbacks are provided to ensure adequate separation from adjoining land uses and a safe environment for vehicles and pedestrians; and

e. All trees, pumpkins, and other related sale items, as well as signs and temporary structures, shall be removed within 10 days after the end of sales, and the appearance of the site shall be returned to its original state. A monetary deposit shall be required, upon application, as set forth in the currently adopted city fee schedule to guarantee site cleanup.

7. Temporary Classrooms. A temporary classroom, including a manufactured or mobile unit, may be approved for a maximum of one year at an existing private school. An extension of one year may be granted by the planning division. A temporary structure proposed for a longer time period shall comply with all provisions of the development code applicable to a permanent structure on the same site.

8. Temporary Shelter. The use of a trailer, as defined in Vehicle Code Section 630, camper as defined in Vehicle Code Section 243, or recreational vehicle as defined in Health and Safety Code Section 18010, and a trailer coach as defined in Vehicle Code Section 635, is prohibited for residential purposes except for the following conditions:

a. If an existing home is damaged and determined to be uninhabitable by the building official, a trailer, camper, or RV may be occupied for a maximum one-year period, when a building permit has been issued and is active.

b. A trailer, camper, or recreational vehicle may be parked on a lot consistent with the regulations of CDC 18.160.160 (Parking and storage of recreational vehicles).

9. Vehicle Sales Events. Temporary events sponsored by a credit union or similar organization and held on private property such as a business park, with the property owner's authorization. These events shall be limited to a maximum of two consecutive days and shall not occur in the same location more than two times a year.

10. Used Goods Collection Centers. Used goods collection facilities at any location other than within a permanent building or structure shall comply with all of the following standards:

a. The location of collection centers (trailers or containers) shall not obstruct any required parking spaces or disrupt either automobile or pedestrian traffic to or within the site;

b. Collection centers shall be located so they are not visible from the public right-of-way;

c. The location of collection centers shall not create a public or private nuisance;

d. Only one trailer or container shall be permitted per parcel;

e. Collection centers shall be operated by nonprofit organizations;

f. Collection centers shall be kept clean, well maintained, neatly painted, and in good operating condition;

g. Each collection center shall be clearly marked with the name of the nonprofit organization doing the collection and the local telephone number of the organization;

h. Any litter or spillage shall be immediately removed and cleaned;

i. The collection center shall be manned at all times the center is in use;

j. The written consent of the property owner shall be provided at the time permission is requested to use a collection center; and

k. Upon termination of a collection campaign or program, collection facilities shall be removed and the site restored to its original condition within 48 hours.

11. Similar Temporary Activities. A temporary activity, event, or use that the planning division determines is similar to the other activities listed in this section, and is compatible with the applicable zoning district and surrounding land uses.

G. Findings. Administrative permits for temporary events, activities, and uses, in accordance with Chapter 18.420 CDC (Administrative Permits), shall be approved only when all of the following findings can be made:

1. The establishment, maintenance, or operation of the activity, event, or use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity of the proposed use.
2. The activity, event, or use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
3. Approved measures for the removal of the activity, event, or use and site restoration have been required to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed.
4. The approval includes provisions to ensure that each site occupied by a temporary activity, event, or use shall be cleaned of debris, litter, or any other evidence of the temporary use upon completion or removal of the activity, event, or use and shall thereafter be used in compliance with the provisions of the development code. The review authority may require an appropriate security deposit prior to the initiation of the activity, event, or use to ensure proper cleanup after the use is terminated.
5. The time and duration of the temporary use or event is limited and appropriate for the purpose, and does not result in a nuisance or affect the public health, welfare, or safety of the community.

~~5-6.~~ Additional conditions may be required, as appropriate, to minimize any adverse impacts of the temporary activity, event, or use.

H. Prohibited Temporary Activities, Uses, and Structures.

1. Privately Owned Vehicle Sales. The parking of privately owned automobiles in commercial, industrial, or public parking lots for the express purpose of offering the vehicle for sale is prohibited. This does not apply to permanent automobile/vehicle sales and leasing uses.
2. Shipping and Cargo Containers. Temporary structures including shipping and storage containers shall be prohibited as temporary stand-alone structures and are only permitted as building components of permanent structures subject to design and site review, with particular attention paid to roofing, exterior treatment, architecture, compatibility with adjacent buildings, and placement on a permanent foundation.

Exhibit F

18.415.100 Decision and findings.

A. Decision and Findings. The review authority shall consider the recommendations from the design review board and may approve, conditionally approve, or deny the application after finding that:

1. The project is consistent with the general plan; and

2. The project meets the criteria in CDC 18.415.080 (Design criteria); ~~and~~

~~3. The project is consistent with all applicable design guidelines adopted by the city council that are in effect at the time of approval.~~

B. In approving a design and site review, the review authority may impose conditions of approval as deemed necessary to:

1. Ensure that the proposal conforms to the general plan and other applicable plans or policies adopted by the city council; and

2. Ensure that the proposal meets the requirements of the applicable zoning district, applicable provisions in the Concord Municipal Code, and other standards in the development code.

Exhibit G

18.505.020 Time limits and extensions.

A. Time Limits.

1. Unless conditions of approval or other provisions of the development code establish a different time limit, any planning permit or approval granted in compliance with Division VII of this title (Permits and Permit Procedures) that is not exercised within ~~12~~ 24 months of its approval shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section (Extensions) or the applicant can demonstrate that they have diligently attempted to exercise the permit but were unable due to circumstances beyond their control (i.e., failure to obtain required permit from other governmental agency).

2. The planning permit shall not be deemed "exercised" until:

- a. A building or grading permit has been issued and actual construction diligently commenced thereon and has not expired;
- b. A certificate of occupancy has been issued; or
- c. The use is established (in operation) at the site.

3. For the purposes of the development code, "actual construction" shall mean the placing of construction materials on the site in a permanent manner consistent with approved plans and permits, including the installation of public or private improvements; provided, that in all cases construction work shall be diligently pursued until completion of the subject structure.

4. The planning permit or approval shall remain valid after it has been exercised as long as the building permit (or other applicable permit) is active for the project, or a final building inspection or certificate of occupancy has been issued.

5. If a project is to be developed in preapproved phases, each subsequent phase, until 50 percent or more of the site is developed, shall be exercised within 12 months from the date that the previous phase was exercised, unless otherwise specified in the planning permit, or the planning permit shall expire and be deemed void.

6. If the project also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and all planning permit approvals shall be valid for the life of the tentative map.

B. Extensions. Upon request by the applicant, the city may extend the time for an approved planning permit to be exercised in the following manner:

1. The permittee shall file a written request for an extension of time with the planning division at least 10 days before the expiration of the permit, together with the filing fee required by the city's fee schedule.

2. The applicable review authority shall hold a public hearing on any proposed extension in compliance with Chapter 18.500 CDC (Public Hearings).

3. The burden of proof is on the permittee to establish with substantial evidence that the permit should not expire. If the applicable review authority determines that the permittee has proceeded in good faith and has exercised due diligence in complying with the conditions in a timely manner, the review authority may grant a time extension for up to an additional ~~12~~ 24 months from the date of the decision to extend the permit; provided, that the review authority first finds that:

a. The requested extension is consistent with the general plan and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered;

b. The findings required by the original approval remain valid; and

c. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.) to ensure that the requested extension would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.

4. Exception. If the project approval includes the approval of a tentative map, which is subject to additional time extensions, all planning permit approvals shall be valid for the life of the tentative map.

Exhibit H

18.540.090 Limitation of actions.

Except as otherwise provided in Government Code Section 65009, any court action or proceedings to attack, review, set aside, void or annul any decision on matters listed in this chapter, including, but not limited to, rezoning or reclassification of property, or concerning any of the proceedings, acts or determinations taken, done or made prior to such decisions, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service is made on the city after the effective date of such decisions.

~~A. The provisions of this section apply to all matters listed in the development code; provided, however, that should any court of competent jurisdiction hold that this section is invalid in its application to matters referred to in California Government Code Section 65907, then such validity shall not affect the application of the provisions of this section to all other matters listed in the development code, and, to this end, the application of this section to matters other than those listed in California Government Code Section 65907 is hereby declared to be severable.~~

~~B. The city council hereby declares that it would have adopted this chapter and made the same applicable to matters other than those listed in California Government Code Section 65907 irrespective of any holding that this chapter cannot legally be applied to matters referred to in California Government Code Section 65907.~~



REPORT TO PLANNING COMMISSION

DATE: July 15, 2015

SUBJECT: An Amendment to the Rules of the Planning Commission of the City of Concord to Change the Meeting Start Time to 6:30 PM

Recommendation: Staff is recommending moving the start time of Planning Commission meetings from 7:00 pm to 6:30 pm.

I. Introduction

Staff is proposing a change to the start time of Planning Commission meetings from the current 7:00 pm to 6:30 pm, a half hour earlier, to allow for Planning Commission meetings to be completed at an earlier time. This would then be consistent with the City Council meetings starting time of 6:30 pm. This change would also decrease the overtime hours required for non-management staff who will be present at the Commission meetings.

II. Background

Concord Municipal Code Section 2.20.370 (Rules of procedure; designation of committees and task forces) provides that the Planning Commission adopt rules of procedure by resolution. However, any such resolution must be approved by the City Council before it becomes effective.

The current Rules of the Planning Commission for the City of Concord are codified in the "Rules of the Planning Commission," effective 4/16/08. The following section indicates the time the Planning Commission meetings are held.

I. MEETINGS:

- A. The Planning Commission shall schedule meetings as necessary, to be held on the first and third Wednesdays of each month beginning at 7:00 pm in the City Council Chambers. Study Sessions shall occur on an as-needed basis.

Staff is proposing to simply change the time in the paragraph above from 7:00 pm to 6:30 pm, and, upon City Council approval, issue a revised Information Bulletin, as shown in Attachment A of Exhibit 1.

III. Analysis

Staff is recommending the earlier start time to be consistent with the start time of City Council meetings; the proposed Amendment is an administrative activity. This change will also reduce the wait time for staff who stay to present at or provide support for Planning Commission meetings. As a consequence, it will reduce the issuance overtime hours. This will also allow Planning Commission meetings to end earlier for the commissioners and the public.

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 Amendment does not constitute a "project" within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Even if the Amendment did constitute a project under CEQA, staff believes the activities fall within the "common sense" exemption set forth in 14 Cal. Code Regs. 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..." Further, administrative activities such as the Amendment are exempt from CEQA per 14 Cal Code Regs. Section 15378. Therefore, no further environmental review is required.

IV. Fiscal Impact

There is no fiscal impact to the City resulting from this change. There may be a reduction in overtime hours required for non-management staff who are present at Planning Commission meetings.

V. Public Contact

This item has been posted at the Civic Center at least 10 days prior to the public hearing.

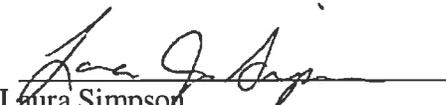
VI. Recommendation

Staff is recommending that the Planning Commission adopt and approve a Resolution for forwarding to City Council recommending City Council approve moving the Planning Commission meeting start time to 6:30 pm.

VII. Motion

I (Comm. _____) hereby move that the Planning Commission approve Resolution PC 15-10, Adopting An Amendment To The Rules Of The Planning Commission Of The City Of Concord To Change The Meeting Start Time To 6:30 Pm And Recommending City Council Approval of Such Planning Commission Resolution and the Amendment (Seconded by Comm. ____ .)

Prepared by:


Laura Simpson

Planning Manager

925-671-3369

Laura.simpson@cityofconcord.org

EXHIBITS

Exhibit 1: Planning Commission Resolution 15-10, and Attachment A, Amended Rules of the Planning Commission

1 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

2 Recitals

3 1. The Planning Commission finds that the above recitals (which are hereby incorporated by
4 reference) are accurate and constitute findings in this matter and, together with the Amendment
5 Information, serve as an adequate and appropriate evidentiary basis for the findings and actions set
6 forth in this Resolution, and further makes the following findings:

7 General

8 2. The Planning Commission has reviewed, considered, and evaluated all of the Amendment
9 Information prior to acting upon Amendment.

10 3. The documents and other materials that constitute the record of proceedings upon which the
11 Planning Commission has based its recommendation are located in and may be obtained from the City
12 of Concord Planning Division, 1950 Parkside Drive, Concord, CA 94519.

13 CEQA

14 4. Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000,
15 et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California
16 Code of Regulations (collectively, “CEQA”), the Amendment does not constitute a “project” within
17 the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section 15060(c)(2),
18 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the
19 environment, or a reasonably foreseeable indirect physical change in the environment. Even if the
20 Amendment did constitute a project under CEQA, the Amendment falls within the “common sense”
21 exemption set forth in 14 Cal. Code Regs. Section 15061(b)(3), excluding projects where “it can be
22 seen with certainty that there is no possibility that the activity in question may have a significant effect
23 on the environment...”. Further, administrative activities are exempt from CEQA per 14 Cal Code
24 Regs. Section 15378.

25 Amendment

26 5. Based on the Amendment Information, and all oral and written testimony submitted on this
27 item, the Planning Commission makes the findings set forth below with respect to the Amendment:
28

1 a. The findings above are hereby incorporated by reference.

2 b. The proposed Amendment is consistent with the policies in the General Plan and any
3 applicable Specific Plan.

4 c. The proposed Amendment would not be detrimental to the public interest, health,
5 safety, convenience, or welfare of the City.

6 6. The Planning Commission does hereby approve Planning Commission Resolution PC 15-10
7 and adopt the Amendment, consistent with the revisions in Attachment A hereto, and does hereby
8 recommend that the City Council adopt a Resolution approving this Planning Commission Resolution
9 PC 15-10 and this Amendment, consistent with the revisions in Attachment A hereto.

10 Effective Date

11 This resolution shall become effective immediately upon its passage and adoption.

12
13 **PASSED AND ADOPTED** this 15th day of July, 2015 by the following vote:

14 **AYES:**

15 **NOES:**

16 **ABSTAIN:**

17 **ABSENT:**

18
19 _____
Laura Simpson
Secretary to the Planning Commission

20
21 Attachment:

22 A – Amendment.
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ATTACHMENT A

**RULES OF THE PLANNING COMMISSION
CITY OF CONCORD, CALIFORNIA**

The following rules are adopted for the conduct of all business of the Planning Commission of the City of Concord.

I. MEETINGS:

- A. The Planning Commission shall schedule meetings as necessary, to be held on the first and third Wednesdays of each month beginning at 6:30 p.m. in the City Council Chambers. Study Sessions shall occur on an as-needed basis.
- B. The Chair or a majority of the Planning Commission may call a special meeting at any time.

II. ELECTION OF OFFICERS:

- A. Officers shall consist of a Chair and Vice Chair.
- B. Officers shall be selected from the Commission.
- C. Nomination and election of officers shall normally be held on the first meeting following the annual appointments of Commissioners by the City Council.
- D. In the event the Chair retires, completes his/her term of appointment or is otherwise removed from office, the Vice Chair shall become Chair for the balance of the term of office and a new Vice Chair shall be selected to serve until the next re-organization.

III. QUORUM:

Three (3) Commissioners shall constitute a quorum for all business, except for the election of officers for which four (4) Commissioners shall constitute a quorum.

IV. VOTING:

- A. If only three (3) Commissioners are present, all action must be unanimous on any recommended amendment to the Municipal Code or General Plan; all other action would require the majority vote of the Commission in attendance.

- B. A tie vote results in failure of the motion. A subsequent motion may be entertained.
- C. Voting shall be by voice vote for the entire Commission without roll call. A roll call may be required at the option of the Chair or upon request of any member of the Commission or upon request of the project applicant.
- D. A participating Commissioner who remains silent during the voting shall be counted as voting in the majority.
- E. Motion for reconsideration of an item previously acted upon shall not be permitted.

V. ATTENDANCE

Any Commissioner who is absent from three (3) consecutive meetings of the Commission without being excused will be deemed to have resigned from office. (The City Council may appoint a new Commissioner to serve in the place of such a person.)

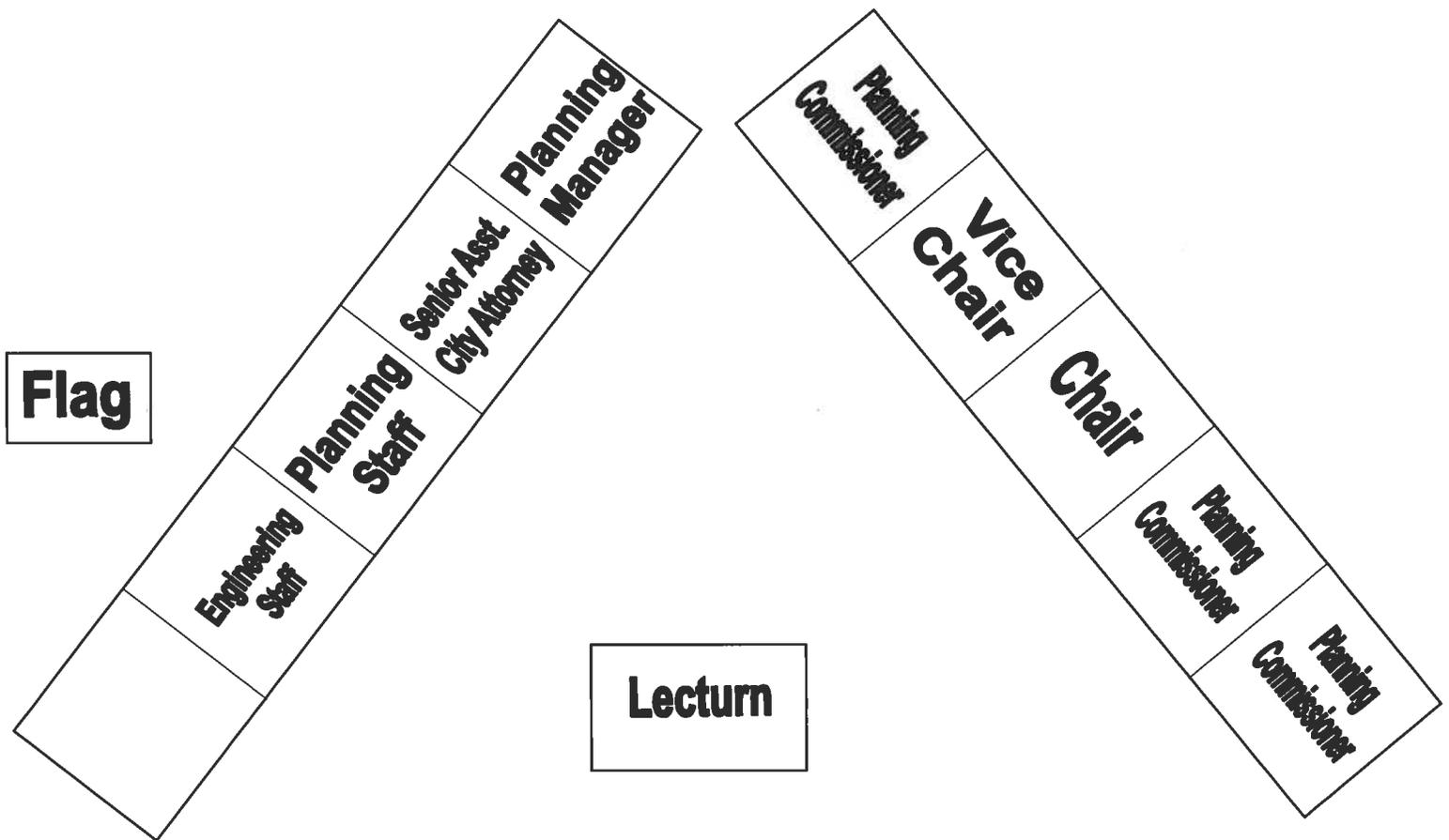
VI. CONDUCT OF MEETINGS

- A. All meetings shall be conducted under Roberts Rules of Order, except as modified by these Rules.
- B. All Commissioners shall address persons through the Chair.
- C. Each person wishing to address the Planning Commission is requested to fill out and return to the minute-taker a speaker card containing the speaker's name, address and item on which he/she is interested in addressing the Commission, and the speaker's position on the item to be addressed. The Chair shall use the speaker's cards to determine whether a time limit is necessary for the item to be discussed, to arrange the order of presentation of testimony before the Planning Commission, and to recognize speakers. The Chair may recognize anyone desiring to address the Planning Commission even if a speaker card has not been filled out. After having received permission from the Chair to address the Planning Commission, each person shall come to the microphone and give his/her name for the record before speaking. All remarks shall be addressed to the Planning Commission as a body. No person other than a member of the Planning Commission and the person having the floor shall enter into any discussion without permission of the Chair. Any person following this procedure shall have the right to be heard during the public comment period or at the time the Planning Commission considers any hearing items listed on the agenda.

- D. Members of the Planning Commission must preserve order and decorum and shall not, by conversation or otherwise, delay or interrupt the proceedings or peace of the Planning Commission in any way, or disturb any other member of the Planning Commission while speaking, or refuse to obey the orders of the Planning Commission or the Chair, except as otherwise provided herein.
- E. No person addressing the Planning Commission may make any unduly repetitive, irrelevant, personal, impertinent, slanderous, profane, loud, threatening, or abusive remark to any member of the Planning Commission, City staff, or the general public. No person may bring into the Council Chamber any device, sign or object that may cause disruption of the meeting, or obstruct others attending the meeting from participating in, hearing, or seeing the meeting proceedings. Any person who makes such remarks, or who engages in any other disorderly conduct which disrupts, disturbs, or otherwise impedes the orderly conduct of any Planning Commission meeting may, at the discretion of the Chair or the Planning Commission majority, be barred from further comments during that meeting, or subjected to enforcement actions pursuant to Section 4.43 of City of Concord's Policy and Procedure 2.
- F. Persons who wish to speak on hearings listed on the agenda will be heard when the hearing is opened, except on hearing items previously heard and closed to public comment. The project applicant normally shall be the first person to make a presentation when a hearing is opened for public comment. After the public has commented, the item is closed to further public comment and brought to the Planning Commission level for discussion and action. Further comment from the audience will not be received unless requested by the Commission.
- G. At the discretion of the majority vote of the Commissioners, no new items will be heard after 11:00 p.m. New items will be continued with priority to the next regular meeting of the Planning Commission.
- H. A maximum 15-minute public comment period will be provided. The public comment period is not for the discussion of items scheduled for that evening's agenda.
- I. All routine (consent) and continued items will be considered by the Planning Commission at the beginning of the meeting. There will not be separate discussions of these items unless a request is made prior to the time the Commission considers the motions.

VII. POLICY:

All matters of policy not covered by law may be adopted as a “Resolution of Policy” and when so adopted shall be considered the official policy of the Planning Commission.



STAFF
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