

**COMMITTEE MEMBERS**

Edi E. Birsan, Chair  
Carlyn S. Obringer, Member

Civic Center  
1950 Parkside Drive  
Concord, CA 94519  
www.cityofconcord.org



**Special Meeting of the  
Policy Development &  
Internal Operations  
Committee**

Monday,  
June 11, 2018

5:30 p.m.

City Council Chamber  
1950 Parkside Drive

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

**1. ROLL CALL**

**2. PUBLIC COMMENT PERIOD**

**3. REPORTS**

- a. **Considering** – proposed Development Code amendment to regulate unattended charitable donation boxes. **Report by Lance Bayer, Special Counsel.**
- b. **Considering** – Development Code standards for Home-based Business Clients and Customers. **Report by Frank Abejo, Principal Planner.**

**4. ADJOURNMENT**

**ADA NOTICE AND HEARING IMPAIRED PROVISIONS**

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Distribution: City Council  
Valerie Barone, City Manager  
Susanne Brown, City Attorney  
Kathleen Tropa, Assistant City Manager  
Joelle Fockler, City Clerk



## **Staff Report**

**Date:** June 11, 2018

**To:** Council Committee on Policy Development and Internal Operations

**From and Reviewed by:** Susanne Brown, City Attorney  
[Susanne.brown@cityofconcord.org](mailto:Susanne.brown@cityofconcord.org)  
(925) 671-3160

**Prepared by:** Lance Bayer, Special Counsel  
[Lance.bayer@cityofconcord.org](mailto:Lance.bayer@cityofconcord.org)  
(925) 671-3458

**Subject:** Proposed Development Code Amendment to Regulate Unattended Charitable Donation Boxes

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### **Report in Brief**

During the past several years, various non-profit organizations have placed unattended charitable donation boxes in locations on private property in the City. Under the Development Code, these donation boxes have been regulated as Temporary Used Goods Collection Centers, which required an administrative permit. A permitted Temporary Used Goods Collection Center must comply with conditions including a requirement that the center must be staffed at all times the center is in use. At least one non-profit organization asserted that unattended charitable donation boxes on private property are protected as First Amendment free speech.

Because the Development Code provisions for Temporary Used Goods Collection Centers function as a ban on unattended charitable donation boxes on private property, staff recommended to the Council an ordinance amending the Development Code to regulate unattended charitable donation boxes. The Council considered the proposed amendment as part of comprehensive revisions of the Development Code brought to the Council on February 27, 2018. At that time, the Council deferred adoption of the proposed provisions relating to unattended charitable donation boxes. Rather, Council instructed staff return with revisions to address additional concerns that the proposed ordinance did not provide sufficient regulation to address blight and public nuisance activity related to the donation boxes.

### **Recommended Action**

Staff recommends that the PD&IO Committee review and endorse the proposed ordinance amendments.

### **Background**

Because of the proliferation of unattended charitable donation boxes on private property in Concord, City code enforcement officers have responded to numerous neighborhood complaints associated with unattended donation bins on private property. Unpermitted, unattended charitable donation boxes on private property expose the residents of Concord to nuisance activity and obstruct parking or landscaping. Failure to maintain the boxes often results in graffiti and overflowing personal property, as well as the loose placement of oversize or unrequested property. Multiple boxes on the same parcel can cause the same kind of blight that has caused some cities to regulate the proliferation of newsracks.

In some cases, entities placing the donation boxes have refused to remove them. These boxes were removed by City staff at the request of the property owners and notice was provided to the owners of the boxes to contact the City to retrieve their property. The City Attorney's Office received communications from a law office representing a donation box owner citing federal court case law ruling that solicitation of charitable donations by the use of unattended charitable donation bins is protected speech under the First Amendment.

Because the City's staffing requirement operated as a functional ban on donation boxes, staff recommended that changes be made to allow temporary, unattended donation boxes, subject to compliance with conditions to address blight and public nuisance. On October 26, 2015, the PD&IO Committee reviewed and supported those changes. On February 27, 2018, the City Council considered those recommendations, and requested that staff return to the PD&IO Committee to further address duration and placement issues. Staff has proposed additional ordinance revisions to address the concerns raised by the Council.

### **Analysis**

The proposed amendment would allow unattended donation boxes to operate as a temporary use, for a maximum of six months provided they comply with standards related to size, appearance, location, and maintenance; limits the number of donation boxes placed by any company to ten at a time throughout the city; limits the number of boxes on any parcel or center; and prohibits boxes located within 200 feet of each other or previously existing donation boxes. These standards are designed to help minimize the blight concerns addressed above.

The temporary use would require an administrative permit approved at staff level and payment of a fee that is reasonably related to the processing of the application. Failure of a property owner or owner of a donation box to comply with these new provisions of

the Development Code will result in code enforcement action, which includes all of the administrative, civil, and criminal penalties provided under the Concord Municipal Code.

**Financial Impact**

Enforcement of this ordinance should not require additional resources. Existing code enforcement staff are already responding to the placement of unattended donation boxes and any minimal additional costs would be offset by administrative citations and other forms of cost recovery.

**Public Contact**

The Agenda was posted.

**Attachments**

1. Redline of Section 18.200.200 Temporary uses and structures

**Division V. Standards for Specific Uses**

**Chapter 18.200  
STANDARDS FOR SPECIFIC USES**

***[NO CHANGES TO PRECEDING SECTIONS]***

**18.200.200 Temporary uses and structures.**

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***[NO CHANGES TO INTERVENING SECTIONS]***

**5. Unattended Temporary Donation Boxes. An unattended temporary donation box is a temporary box, container, receptacle, or similar facility, with ground dimensions no greater than 20 square feet and a height no greater than five feet that is placed on private property for the purpose of accepting clothing, textiles, shoes, books, and/or other salvageable personal property items to be used by an organization for distribution, resale, or recycling, subject to the following standards:**

**a. The donation box shall be approved for a maximum period of six months and may not be renewed. The donation box shall not be located within 200 feet of any previous location of any donation box located by the same organization or any organization affiliated with the same organization. The application for zoning clearance determination shall include a site plan indicating the location of the proposed donation box and the dates for which approval is requested. The application further shall state the name and contact information of the person designated by the organization to be responsible for maintenance of the donation box;**

**b. The location of donation boxes shall comply with the following:**

**i. Shall not be located within (20) twenty-five feet of the public right-of-way or other public property;**

**ii. Shall not be located within 200 feet of any existing donation box;**

iii. Shall be in an area that is adequate in size and shape to accommodate the donation box and to allow for adequate foot traffic and access by the disabled;

iv. Shall not impede adequate vehicular traffic to or within the site;

v. Shall not obstruct any required parking spaces;

vi. Shall not obstruct or interfere with drainage or the operation of utilities; and

viii. Shall not create a public or private nuisance.

c. No organization may locate any more than 10 donation boxes at any time in the City of Concord

d. Only one donation box shall be permitted per parcel of real property or per multiple parcels functioning as one office, commercial, business, or industrial center; donation boxes shall only be located in an office and commercial or business park and industrial zone and only on a parcel where a primary business or commercial use is in operation;

e. Donation boxes shall be kept clean, well maintained, neatly painted, and in good operating condition with no structural damage, holes, or visible rust. Donation boxes shall be locked or otherwise secured and shall have a collection opening that has a tamper-resistant locking mechanism. Donation boxes shall be serviced and emptied as needed, but at least every seven days;

f. Donation boxes shall be maintained free of litter and graffiti at all times. The property owner, tenant in control, and/or operator shall remove all donation items, abandoned personal property, trash, litter and debris within twenty feet of the box on a daily basis. Graffiti shall be removed within forty-eight hours of written notice from the City;

g. Donation boxes shall be clearly marked with the name of the organization doing the collection and a working telephone number of the organization;

h. Donation boxes shall bear a sticker issued by the City evidencing zoning clearance determination by the City and the expiration date of the temporary use.

i. The City may summarily abate any donation box found in violation of these conditions upon 48 hours' written notice to abate provided to the person designated by the organization to be responsible for maintenance of the donation box;

j. The written consent of the property owner and any tenant in control of the location where the donation box is intended to be placed shall be provided to the City at the time zoning clearance determination is requested. The property owner and/or any tenant in control of the location where the donation box is intended to be placed may remove the donation box at any time, with or without consent of the owner or operator of the donation box;

k. Upon termination of the authorized temporary use, donation boxes shall be removed within 48 hours; and

l. The property owner, tenant in control of the location, and organization shall be individually and severally responsible for complying with the conditions of these provisions.

***[NO CHANGES TO SUBSEQUENT SECTIONS]***



## **Staff Report**

**Date:** June 11, 2018

**To:** Council Committee on Policy Development and Internal Operations

**From:** Kathleen Trepka, Assistant City Manager

**Reviewed by:** Andrea Ouse, Community and Economic Development Director  
Laura Simpson, Planning and Housing Manager

**Prepared by:** Frank Abejo, Principal Planner  
[Frank.abejo@cityofconcord.org](mailto:Frank.abejo@cityofconcord.org)  
(925) 671-3128

**Subject:** **Home-based Business Standards on Clients and Customers**

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### **Report in Brief**

In January 2017, a Code Enforcement case was opened against a home-based tutoring service located at 3733 Crenna Avenue that tutors small groups of high school students, with the complainant charging that more than the allowed one student at a time were being tutored at the site. Code Enforcement worked with the homeowner on a proposed resolution, but a complaint was received a year later alleging the issues remained. After receiving comments from the home-based business operator and the complainant, the City Council requested that staff provide a recommendation to the Policy Development and Internal Operations (PDIO) Committee after evaluating current home-based business restrictions regarding individual instruction.

### **Recommended Action**

Staff recommends that existing regulations be maintained, allowing “by right” (administrative, non-discretionary) home-based tutoring or instruction for one student at a time, and not more than six total students per day, during approved hours of operation. Alternatively, staff has proposed the following alternatives for Committee consideration:

**Alternative 1:** Recommend to the City Council a Development Code Amendment that would allow home-based tutoring or instruction in any combination of up to four students at a time, and not more than six total students per day. This could be allowed by right through the Home-based Business Permit process.

**Alternative 2:** Recommend to the City Council a Development Code Amendment that would allow home-based tutoring or instruction in any combination of up to four students at a time, and not more than twelve students total per day with an Administrative Permit. This process would include notification to residents within a 300-foot radius of any permit decision and would allow for the right to appeal the decision at a public hearing before the Zoning Administrator.

### **Background**

The Development Code defines “Home-based business” as “an income-producing activity customarily conducted within a residence or residential accessory building, only by the inhabitants thereof, which use is incidental to and does not change the character of the residential use of the property.” A home-based business is permitted as an accessory use to the residential use of a property but must comply with standards contained in Development Code Section 18.200.100 (Attachment 1). The standards include the following restrictions on clients, customers or students served by home-based businesses:

No clients or customers shall be permitted at the site of the home-based business except for students engaged in individual home instruction; i.e., with one student at a time and no more than six students per day. Student hours shall be between 8:00 a.m. and 8:00 p.m. An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.<sup>1</sup>

In January 2017, Code Enforcement received a complaint regarding an unpermitted home-based tutoring business at 3733 Crenna Avenue.

The home-based business operator was informed by Code Enforcement of the requirement to obtain a business license and Home-based Business Permit. The Home-based Business Permit lists the applicable standards and restrictions for home-based businesses. By completing the application, the home-based business operator acknowledged that the business would operate in compliance with each of the standards, including the restriction for individual tutoring. The Code Enforcement case was closed after the home-based business owner obtained both the business license and Home-based Business Permit in February 2017.

In April 2017, a second complaint was filed with Code Enforcement regarding the home-based business serving multiple students and causing traffic impacts in the neighborhood. Code Enforcement worked with the home-based business operator to

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<sup>1</sup> The exception allows a home-based business serving nonstudent clients subject to a Zoning Administrator hearing and approval. Since 2008 when the home-based business regulations were adopted, the Zoning Administrator has approved one home-based business for a marriage, family, and child therapist that serves up to six clients per day. Examples of other home-based businesses that this exception could allow include tax preparers, notaries, and consulting services.

designate parking areas for students outside of the immediate area and the case was closed.

In February 2018, Code Enforcement received a third complaint that reported the home-based business was operating as a school. Code Enforcement inspected the business and spoke with the business owner who confirmed that tutoring was provided for up to four students at a time. Consequently, the home-based business operator has requested amending the current regulations as follows (see Attachment 3):

Option 1 (**Proposed by business operator**): “Clients or Customers. No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction of college preparatory classes; i.e., with one student at a time and no more than 6 students per day. ~~Student hours shall be between 8:00 a.m. and 8:00 p.m.~~ An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.”

Option 2 (**Proposed by business operator**): “Clients or Customers. No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction of college preparatory classes; i.e., with one student at a time and no more than 6 students per day. up to 6 students at a time. Student hours shall be between ~~8~~9:00 a.m. and ~~8~~9:00 p.m.- An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.

### **Analysis**

The Home-based Business standards seek to eliminate or minimize the impact(s) of home-based businesses on neighbors by making them “invisible to the neighborhood.” Staff views the current restrictions on customers and employees as paramount in order to ensure that home-based businesses have a low impact on residential neighborhoods, especially in regard to traffic and parking impacts. Additionally, staff would be concerned with the cumulative impact of allowing larger home-based tutoring or instruction in residential neighborhoods where other “non-residential” uses are already allowed by right under State law (e.g., residential care facilities for up to six residents, family day care homes for up to six children, and supportive and transitional housing). As a result, staff’s recommendation is to maintain the existing Code provisions limiting instruction to one student at a time and no more than six per day to avoid potential impacts in residential areas.

Concord’s regulations on home-based business clients and customers are comparable to regulations of surrounding municipalities (see table below); however, some communities provide more general guidance rather than stipulated limits. Like Concord, Contra Costa County and Walnut Creek explicitly prohibit clients or customers from coming directly to the home, with exceptions for individual instruction or education-

related services. Pleasant Hill prohibits home occupations from generating traffic or parking beyond what would typically be associated with a residential use.

**Table 1. Comparison of Surrounding Municipalities’ Regulations on Home-based Business/Home Occupation Clients and Customers**

| Jurisdiction        | Regulation   |
|---------------------|--|
| Contra Costa County | No clients or customers are permitted at the site of the home occupation, except for students engaged in individual home instruction. If student visits occur, only one student may be present at one time, no more than six student visits may occur per day, and students may be present only between eight a.m. and six p.m.  |
| Martinez            | The conduct of the home occupation shall not create excessive pedestrian, automobile or truck traffic in the vicinity or on the property of any other residence.   |
| Pleasant Hill       | Home occupation does not generate traffic in excess of that which is normally associated with residential use and requires no additional parking.  |
| Walnut Creek        | Home occupations shall not necessitate the rendering of services to customers or clients on the premises with the exception of educational services. Educational services are permitted so long as such activities do not generate pedestrian or vehicular traffic beyond that normal for the district in which it is located and does not create a neighborhood nuisance. |

If the Committee supports allowing multiple students for home-based instruction, the Development Code would need to be amended, and staff requests that the Committee consider the following:

- 1) Should the allowance for multiple students be limited to academic instruction, or also apply to other types of instruction in small groups (e.g., martial arts, personal fitness, sports training)? The Development Code amendment would require preparation of a definition of “academic instruction” if the Committee wishes to limit instruction in this manner.
- 2) What standards or conditions of approval should apply to large home-based tutoring or instruction? Staff recommends the Committee consider the following standards or conditions:
  - The driveway shall provide a minimum of two (2) parking spaces for use by students/customers receiving instruction.
  - The home-based business is not located within 300 feet of any other home-based business that serves students or non-student clients.

- All instruction shall be conducted indoors and shall not be visible from outside views.
- 3) Adding standards or conditions for home-based businesses creates new enforcement obligations for the City. Code enforcement cases concerning violations of these new standards or conditions are to be expected.

**Public Contact**

The Agenda was posted. Notices were also mailed to residents within 300 feet of the subject home-based business and to existing businesses that provide similar tutoring or instructional services in commercial or home-based settings.

**Attachments**

1. Development Code Section 18.200.100 Home-based businesses
2. May 1 and May 30, 2018 Correspondence from Complainant
3. May 31, 2018 Correspondence from Respondent

**18.200.100 Home-based businesses.**

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Where allowed by Division II of this title (Zoning Districts – Uses and Standards), home-based businesses shall comply with the requirements of this section.

A. **Applicability.** This section applies to all home-based businesses which are allowed as an accessory use to the residential use of any property. This section applies wherever residential uses are allowed by Division II of this title.

B. **General Requirements.** All home-based businesses shall comply with the following:

1. **Location.** The home-based business shall be conducted entirely within the principal dwelling, within an enclosed structure attached to the dwelling, or within a legally permitted and constructed enclosed accessory structure detached from the dwelling, excluding required garage parking area.

2. **Floor Area Maximum.** The space exclusively devoted to home-based businesses, including any related storage, shall not exceed 20 percent of the dwelling unit's habitable square footage as determined by county tax records.

3. **Employees.** Employees working or meeting at the site shall be limited to persons who reside at the residence and one nonresident. The one nonresident employee's hours shall be between 8:00 a.m. and 8:00 p.m.

4. **Clients or Customers.** No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction; i.e., with one student at a time and no more than six students per day. Student hours shall be between 8:00 a.m. and 8:00 p.m. An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.

5. **Vehicles.** In order to retain and preserve the neighborhood character and residential appearance of the property, a maximum of one business vehicle up to one-ton capacity per residence shall be permitted; provided, that the vehicle does not give the appearance that a business is being conducted at the location. The following types of vehicles are expressly prohibited: limousines, dump trucks, tow trucks, pick-up trucks with the bed converted into a

hauling compartment designed to hold materials and equipment that exceed the height of the existing sides of the truck; construction vehicles (e.g., front-end loaders, backhoes); trailers (e.g., construction trailers, chipper trailers); construction equipment (e.g., cement mixers, chippers); vehicles over one ton; and similar vehicles.

6. Parking. A home-based business shall not encroach on any areas required for parking. A vehicle used in conjunction with a home-based business shall be parked in compliance with all applicable parking requirements for the residence.

7. Appearance. The residential appearance of the property at which the home-based business is conducted shall be maintained, and no exterior indication of a home-based business shall be permitted, including commercial advertising signs or window displays.

8. Storage. No equipment, parts, materials, supplies, merchandise, refuse, or debris shall be stored outdoors. Equipment, parts, materials, supplies, or merchandise may be stored within a permanent, fully enclosed compartment of a passenger vehicle or truck. No refuse or debris shall be stored in any vehicle. There shall be no storage of hazardous chemicals other than that which is normally found at a private residence.

9. Deliveries. Deliveries shall be limited to the frequency of deliveries and types of vehicles normally associated with residential neighborhoods and shall be between the hours of 8:00 a.m. and 8:00 p.m.

10. Nuisances. No home-based business shall be conducted in a manner which creates a public nuisance under state law or under the development code. Without limiting the foregoing, a home-based business shall not create noise, odor, dust, vibration, smoke, electrical disturbance, or any other interference with residential uses of adjacent property and shall be invisible to the neighborhood. There shall be no excessive use of, or unusual discharge into, any one or more of the following utilities: water, sanitary sewers, electrical, garbage, or storm drains.

11. Compliance with Other Requirements. A home-based business shall comply with all other applicable state laws and city ordinances, including any state licensing requirements.

C. Prohibited Home-Based Businesses. The following types of home-based businesses are expressly prohibited:

1. Automotive service, diagnosis, or repair to vehicles, other large machinery or equipment, or large appliances of others; and
2. Beauty salons and barber shops.

D. Permit Requirements.

1. Any person desiring to operate or establish a home-based business shall file an application and pay the fees for a home-based business permit in accordance with Chapter 18.420 CDC (Administrative Permit).
2. Any person whose home-based business relies on nonstudent clientele visiting the residence may apply for a minor use permit in accordance with Chapter 18.435 CDC (Minor Use Permits and Use Permits), to allow up to six nonstudent clientele customers per day, with one client at a time.

E. Appeals. If the administrative permit is denied or revoked, the home-based business applicant or permit holder may appeal the planning division's determination pursuant to Chapter 18.510 CDC (Appeals and Calls for Review). [Ord. 12-4. DC 2012 § 122-623].

May 1, 2018

Honorable Mayor and members of the Concord City Council,

It is my understanding there has been a request to allow for more students at a home-based business in my neighborhood.

Last week I received a voicemail from the Concord City Manager that a committee will be evaluating this request and will make a determination whether the request is reasonable.

I can honestly say that there has been a tremendous impact to the neighborhood from the non-conforming home based business located at 3733 Crenna Avenue.

Between the traffic, over 300 + (additional) vehicle trips through my neighborhood each month, students speeding through our neighborhood in their cars, the cigarette butts from the idling parents, the knocked over trash cans and surly comments from the operators of the business, and groups of unaccompanied minors walking the streets - this business has had a *huge impact* to the character of our neighborhood.

Initially, there was only one student on Sunday afternoons, and I did not have any problem with that level of impact to our neighborhood, but for the last 3 years there has been an exponential increase to the numbers of students and evenings when the business is operating beyond the time limits and numbers of students allowed, which are in direct violation of the Home-Based Business Permit limits.

Now there is a parade of cars at 5 p.m., 6 p.m., 7 p.m., 8 p.m. and 9 p.m., wherein up to 20 students have been observed cycling through the home on an hourly schedule to have math tutoring. I have complained to the City Planners, and Code Enforcement (Police staff), who say it is not a *low priority*, but a "**NO PRIORITY**", and Planning staff comments such as; "They run a clean operation..." and "But they are AP students, we should give them a break....."

I surveyed the adjoining Cities and all do not allow as much activity as Concord's current Home Based Business does, even when the operators comply.

Walnut Creek, Pleasant Hill and Martinez Code Enforcement personnel said that they will only allow (with a Conditional Use Permit) one student at a time up to 5:00 p.m.

**Here is what your application allows:**

**Clients or Customers:** No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction, i.e., with one student at a time and no more than six (6) students per day. Students may report for instruction between the hours of 8:00 a.m. and 8:00 p.m. only. \_\_\_\_ (**applicant's initials**)

**The key here is "INDIVIDUAL HOME INSTRUCTION"... During their regular weeks they have at least 4 students at a time and during S.A.T. Prep. Times, I have seen up to 12 students at a time.**

**Parking:** A home-based business shall not encroach on any areas required for parking. A vehicle used in conjunction with a home-based business shall be parked in compliance with all applicable parking regulations, including but not limited to City of Concord 2012 Development Code, Section 18.160. \_\_\_\_ (**applicant's initials**)

Due to the ever increasing number of students cycling through the neighborhood, the students are now being asked to park around the neighborhood in a effort to conceal the number of cars. However, there are the younger students whose parents wait the hour for their kids to get done with "School", and use my driveway as a turnaround..., smoke and drop cigarette butts, drop litter and play loud music, all of which are disruptive to the peace and quiet of our neighborhood.

**Appearance:** The residential appearance of the property at which the home-based business is conducted shall be maintained, and no exterior indication of a home-based business shall be permitted, including commercial advertising signs or window displays. \_\_\_\_ (**applicant's initials**)

The operators of this business have blackened out the window of the front bedroom to prevent viewing of the white boards, long tables and student chairs set up for this School.

**Nuisances:** A home-based business shall be conducted in a manner which does not create a public nuisance under State law or under this Code. Further, a home-based business shall not create noise, odor, dust, vibration, smoke, electrical disturbance, or any other interference with residential uses of adjacent property, and **shall be invisible to the neighborhood**. There shall be no excessive use of, or unusual discharge into, any one or more of the following utilities: water, sanitary sewers, electrical, garbage, or storm drains. \_\_\_\_ (applicant's initials)

**This business is not invisible to the neighbors!!!!**

- A. The traffic trips are unacceptable, 300 + vehicle trips per month....
- B. The students have been instructed not to park in front of the operators' house, because they are tired of the unsightly oil drops on the asphalt, now they park in front of my home.
- C. The speeding cars are unacceptable.
- D. The litter and cigarette butts are unacceptable.
- E. The surly comments are an unfortunate result of Code Enforcement not addressing this sooner.

The intensification of the policy is not warranted or reasonable and will lead to more nonconforming School Operations.

I see article after article in the newspaper about how there is so many vacant lease spaces in the down town, and that something must be done. Well, here is one solution; **Enforce the existing Ordinances**, and Municipal Code and get this VERY successful business out of our neighborhood.

For 3 long years I have been begging the City staff to do something about this non-conforming business operating in our quiet neighborhood.

Please direct staff to do what it takes to enforce the existing ordinance for home based business of the City of Concord.

By signing below, applicant acknowledges that the home-based business will be incidental to the property's use as a residence, that it will comply with the criteria stated herein, and will not involve any of the prohibited activities listed above. **Any violation of these restrictions will result in possible fines, penalties or legal action.**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**This is clearly a blatant disregard for the current Municipal Code, Please to not encourage more nonconformance by allowing additional students, the current level of (1) student at a time during the prescribed hours of operation, is a reasonable approach.**

**Please direct staff to do what it takes to enforce the existing ordinance for this home-based business of the City of Concord.**

Sincerely,

*Lowell Brown*

Lowell Brown, (a 15 year resident)

(925) 890-9979

*Don White*  
(14 year resident)

*Just Handley*  
28 yrs!!

*AAA*  
OVER  
20 YEARS

*Muf Liberty*  
1807 AERA DR  
(7 years)

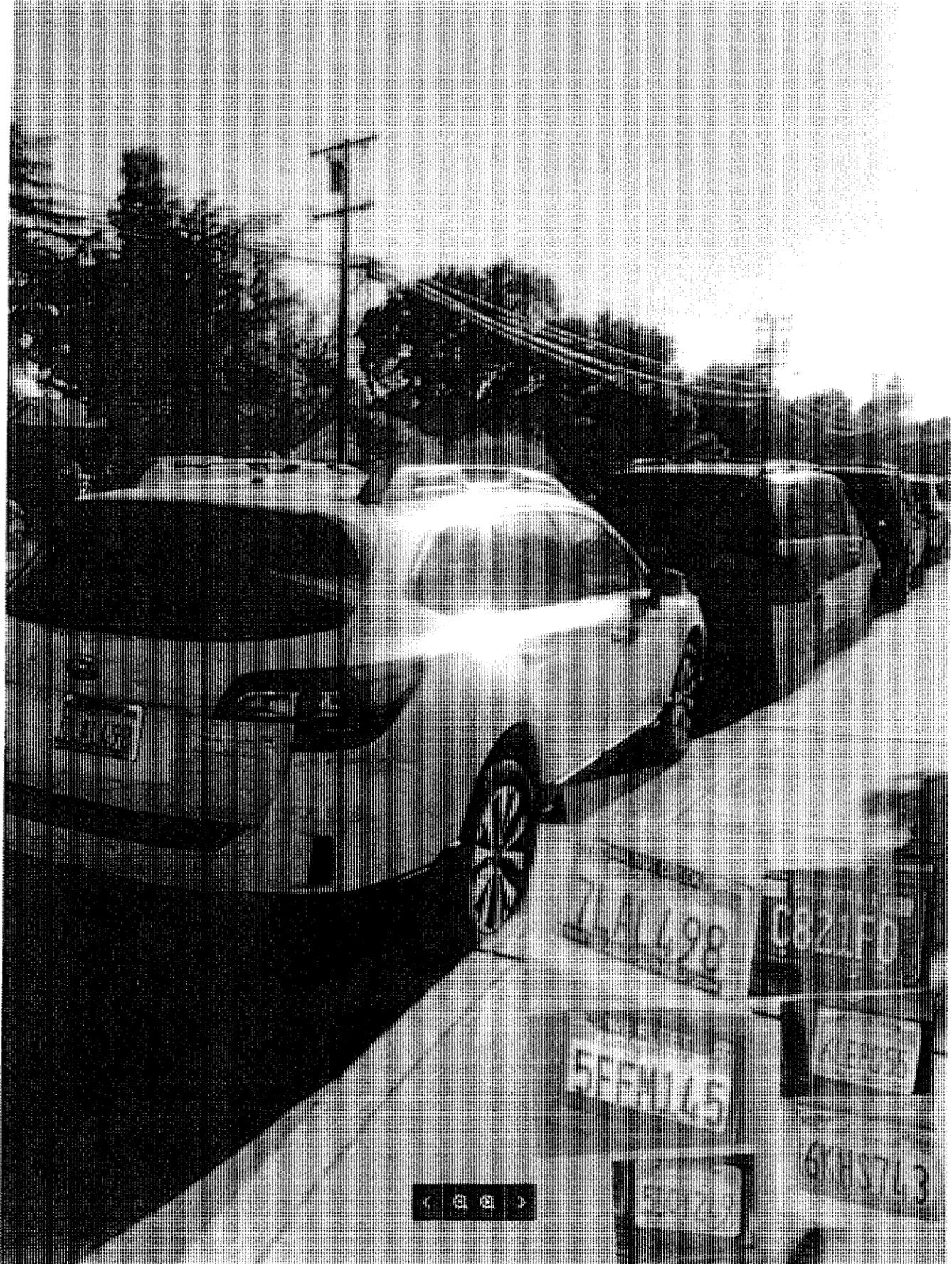
*David Buller*  
11 years

*For 9 hrs*  
5 yrs

*54 years*

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Private Schools Concord CA



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Rating - Hours -

1 **Halstrom Academy - Walnut C**  
 (Ad) 4.5 ★★★★★ (10) · Privat...  
 Walnut Creek, CA  
 (866) 249-4991

WEBSITE DIRECTIONS

2 **The Child Day Schools - Lafa**  
 (Ad) School  
 Lafayette, CA  
 (925) 284-7092

WEBSITE DIRECTIONS

3 **Tabernacle School**  
 5.0 ★★★★★ (4) · Private School  
 Concord, CA  
 (925) 685-9169

WEBSITE DIRECTIONS

4 **Diablo Valley School**  
 4.3 ★★★★★ (6) · Private School  
 Concord, CA  
 (925) 676-2982

WEBSITE DIRECTIONS

5 **St. Francis of Assisi School**  
 3.7 ★★★★★ (6) · Private School  
 Concord, CA  
 (925) 682-5414

WEBSITE DIRECTIONS

6 **Ygnacio Valley Christian Sch**  
 4.7 ★★★★★ (3) · Private School  
 Concord, CA  
 (925) 798-3131

WEBSITE DIRECTIONS

7 **Carondelet High School**  
 4.1 ★★★★★ (11) · Private Sch...  
 Concord, CA  
 (925) 686-5353

WEBSITE DIRECTIONS

8 **King's Valley Christian Schoo**  
 5.0 ★★★★★ (6) · Private School  
 Concord, CA  
 (925) 687-2020

WEBSITE DIRECTIONS

9 **Wood Rose Academy & Pres**  
 5.0 ★★★★★ (1) · Private School  
 Concord, CA  
 (925) 825-4644

WEBSITE DIRECTIONS

10 **Calvary Temple Christian Scr**  
 4.0 ★★★★★ (7) · Private School  
 Concord, CA  
 (925) 458-9870

WEBSITE DIRECTIONS

11 **Concord Christian Schools**  
 4.5 ★★★★★ (2) · Private School  
 Concord, CA  
 (925) 825-1370

DIRECTIONS

12 **De La Salle High School**  
 4.6 ★★★★★ (49) · Private Sch...  
 Concord, CA  
 (925) 288-8100

WEBSITE DIRECTIONS

13 **Concordia School**  
 5.0 ★★★★★ (4) · Private School  
 Concord, CA  
 (925) 689-6910

WEBSITE DIRECTIONS



May 30, 2018

Honorable Mayor and City Council;

RE: CE# 180245 ILLEGAL TUTORING SCHOOL BUSINESS, 3733 Crenna Av.

Sunday evening, 5/13/18 there were 9 students at a time in the illegal Tutoring School located in our neighborhood; 3733 Crenna Av. at 7:50 p.m.

At the direction of the City of Concord Police Department Code Enforcement Division there were (7) vehicles parked on Concord Blvd atop the bike lane. Two of the vehicles had parents idling their engines while they waited the hour until the next set of students arrived, per the attached photo.

Now imagine 7 vehicles per hour - for 4 hours, cycling through your neighborhood 4 nights a week... and parking for (1) hour each until a new group motors through...

I am confident that once the smoke clears on this issue. (if not curtailed) these people will migrate back to parking in the neighborhood... in front of my home. This is because the operator of the business has told the students not to park in front of their home as they were getting too many oil spots on their asphalt. I personally confirmed this by asking one of the students a year or so back.

I was speaking with Frank Abejo about this issue on May 3rd, and he said there was to be a hearing on the 8th of May. I spoke to the affected neighbors and they were planning on attending the meeting to express their concerns about the traffic and other impacts to our neighborhood from this illegal business. I was informed on Monday, May 7th, that the meeting was rescheduled to the 13th of June. I have business out of town that week which cannot be changed, and requested the meeting be moved so that I might attend and express my concerns but my request was denied. Today, I learned the meeting was again moved from June 13, to June 11<sup>th</sup>. This is unfortunate, as it makes attendance for interested and concerned parties even more difficult to accommodate a moving target.

I was informed that the operator of the illegal business presented an impassioned speech at the City Council Meeting about how she is just trying to be a good steward, teaching a few AP students how to pass Calculus. Well, I am here to tell you - this is a thriving business. and the group of people clapping after her diatribe were parents of the students she had solicited to support her. If you have only had an opportunity to listen to the "poor me" speech, one would have thought that *I was the one..., BREAKING THE LAW !!!*

Many other neighbors have been expressing frustration at the lack of effort from the enforcement arm of the City to rid the impact to our neighborhood of this flock of roaches roaming our streets in the dark. I guarantee that they will be parking in the neighborhood again next year when the days are shorter and the winter rains set in.

I have attached a copy of my initial letter to the City Council and along side my signature are almost a dozen other neighbors whom are angry about the increased traffic and impacts this business has brought to our neighborhood.

So let's do the math: 7 vehicles per hour, 4 hours per night, 4 nights per week. That is 112 vehicle trips EACH week... 448 vehicle trips per month. 448 hours of teaching equates to \$22,400 income per month. Surely, she can afford to rent a space in the Central Business District where so many vacant buildings make our City appear to be a blighted backwater.

It is interesting that notices were to be sent out to other private tutors with home occupation permits, but no notice was given to businesses that comply with the laws, lease space and pay their fair share of taxes. This gives me some heartburn, but I have attached a list of all of the businesses for you so it will make noticing them easier for your staff as I am confident they will have an opinion on this matter as well.

So after three long years of asking the City to enforce compliance, to follow their own rules and stop this infringement to the members of our neighborhood who are not taking advantage for financial gain.... I respectfully request that the City do NOTHING, simply direct staff to perform their jobs in accordance with the existing Municipal Code and move on, Lord knows the City doesn't need to open "One more" can of worms, and deviate from any of the neighboring community Municipal Codes by allowing extended hours, more students and increased risk to the unaccompanied minors to wander the streets after dark. The laws are in place for valid reasons, let's see if it is possible to simply enforce them.

It is difficult to say no to the vocal constituency, but In the long run I am confident the real leaders of this community are capable of doing the correct thing, not just the expedient thing and stopping the BS in our neighborhood. After all, "Concord Is For Families!"..., not for businesses taking over our neighborhoods.

Thank you for doing the right thing for the future of Concord



Lowell Brown  
(925) 890-9979

Hello Mr. Abejo,

Thank you for meeting with me yesterday. I appreciate your insight and the information you shared with me.

Attached you will find the proposal to amend 18.200.100(B)(4).

I value the city's input and suggestions. It is my intention to work towards a solution that benefits the City of Concord, instructional home-based business owners, and most importantly MDUSD students.

If there is anything that needs further clarification, or you have any questions, please don't hesitate to call me.

Respectfully,

Claire Weer

925-408-8124

RECEIVED

MAY 31 2018

PLANNING

## PROPOSAL:

The intention of this proposal is to amend code 18.200.100 in such a way as to continue to ensure that neighborhood character is preserved while at the same time increasing the ability of students to access the additional academic instruction they so desperately need.

Currently, section 18.200.100(B)(4) of the Concord Municipal Code states:

“Clients or Customers. No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction; i.e., with one student at a time and no more than 6 students per day. Student hours shall be between 8:00 a.m. and 8:00 p.m. An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.”

This code, as currently written, is restrictive and impractical. I would like to amend this section of code to read as follows:

### Option 1:

“Clients or Customers. No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction of college preparatory classes; i.e., ~~with one student at a time and no more than 6 students per day.~~ Student hours shall be between 8:00 a.m. and 8:00 p.m. An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.”

### Option 2:

“Clients or Customers. No clients or customers shall be permitted at the site of the home-based business, except for students engaged in individual home instruction of college preparatory classes; i.e., ~~with one student at a time and no more than 6 students per day.~~ up to 6 students at a time. Student hours shall be between ~~8~~9:00 a.m. and ~~8~~9:00 p.m. An exception for nonstudent clients is allowed pursuant to subsection (D)(2) of this section.

## SUPPORTING INFORMATION/STUDENT SUPPORT:

Most students (especially high school students) do not finish a school day until 3:30 pm. After school, many students have extracurricular activities that frequently do not end until 6:30 or 7 pm. As I am sure you are aware, being admitted to college is getting more and more difficult. To be admitted to a UC school in the fall of 2017, high school seniors had to achieve an average of a 4.03 GPA on a 4.0 scale. Along with high grades and standardized test scores, a resume full of strong extracurricular activities is

also considered a necessity for students hoping to be admitted to top colleges. *The City of Concord needs to allow students every chance to succeed and provide them with as much support as possible to ensure they are college and career ready.*

I believe we can maintain the desirability and quality of life in our city, while also expanding the number of students who are able to receive help.

Currently, city code only allows one student at a time and no more than 6 a day. I am now seeing 40 students a week over about 12 hours. If the code remains as written with realistic student schedules, I would only be able to help 2 kids per day from 6-8 pm, so about 10 a week. I get phone calls almost every week asking for help with math and/or science classes (from Alg2/trig to AP calculus, AP STAT to AP chemistry). After the first few weeks of school, I have to say “no” and turn students away because there are no more evening hours available, and this is while seeing 4 students at a time in a small group. Saying “no” to a student begging for help with AP calc is not fun. How can we turn our backs on young people asking for help? There are not enough college preparatory tutors in the City of Concord to support all the students in need of tutoring services.

I am asking the city to remove/lessen the restrictive and/or impractical portions of the 18.200.100(B)(4) as shown above.

#### TRAFFIC:

In order to retain and preserve the neighborhood character and residential appearance of the property, the proposal does NOT include any amendments to 18.200.100(B)(5) – Vehicles. The proposal is not asking to increase the number of vehicles, or the allowable parking of clients or customers at a home-based business.

#### CITY IMPACT:

According to city officials, notification will be sent to approximately 20-30 businesses which may offer home instruction in the City of Concord (pop. ~122,000). This represents a density of less than one home-based instructional business per square mile in the City of Concord. Based on the above, it would seem a change in 18.200.100(B)(4) would have a minimal impact on the city.

I value the city’s input and suggestions. It is my intention to work towards a solution that benefits the City of Concord, instructional home-based business owners, and most importantly MDUSD students.