

**Chapter 5.80
CANNABIS**

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Prior legislation: Code 2002 §§ 18-330 and 18-331; Ord. Nos. 05-9, 16-9, 17-10 and 17-13.

5.80.010 Purpose and intent.

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

(b) In November 2016, the voters of the state of California approved Proposition 64, known as the “Control, Regulate and Tax Adult Use of Marijuana Act,” referred to as the “Adult Use of Marijuana Act” (AUMA), which

legalized, subject to certain restrictions, specified nonmedical or adult cannabis uses for purposes of state law.

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

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.020 Definitions.

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

Accessory building or structure means a building or structure that is not part of the principal dwelling unit on the parcel, the use of which is incidental and subordinate to the use of the principal dwelling. Examples of accessory buildings or structures include, but are not limited to: garages, tool sheds, storage sheds, carports, greenhouses, pool cabanas, and other outbuildings or structures.

Adult cannabis use or *adult use* means all uses of cannabis and cannabis products by adults 21 years and over, also referred to as “recreational” or “personal” cannabis use.

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

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

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

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

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

Cannabis business or commercial activity means a business, enterprise, collective or cooperative engaged in commercial cannabis activity or cannabis land use, including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, distributing, researching, testing, providing, or selling wholesale and/or retail sales of cannabis. A cannabis business includes any facility, building, structure or location, expressly including storefront or non-storefront retailer businesses, and deliveries, and shall expressly include those commercial cannabis activities authorized and/or licensed by state law.

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

- (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.

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

(4) An individual who will be participating in the direction, control, or management of the person applying for a license.

(5) Any individual who is entitled to a financial interest in the commercial cannabis business, including individuals who have entered into an agreement to share in the profits of the commercial cannabis business.

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

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

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

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

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

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

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

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

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

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

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

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

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

Dispensary. See "Retailer."

Distributor (Type 11) means a cannabis business that transports cannabis and cannabis products between licensees, which may include arranging for testing of cannabis and cannabis products, and conducting the quality assurance review of cannabis and cannabis products to ensure compliance with all state packaging and labeling requirements, as allowed with a state-issued Type 11 distribution license.

Distributor transport only (Type 13) means a cannabis business that only transports cannabis and cannabis products between licensees, and is not permitted to transport any cannabis or cannabis products, except for immature cannabis plants and/or seeds, to a licensed retailer or to the retailer portion of a licensed microbusiness, as allowed with a state-issued Type 13 distribution license. This definition also includes distributors who are licensed by the state for self-distribution and are permitted to transport cannabis and cannabis products that the licensee has cultivated or manufactured. A distributor transport only self-distribution licensee is not permitted to transport cannabis and cannabis products cultivated or manufactured by other licensees.

Indoor means any location that is within a fully enclosed nonresidential building or structure, or private residence.

Industrial hemp means a crop that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not;

the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

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

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

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

MCRSA means the Medical Cannabis Regulation and Safety Act.

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

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

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

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

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

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

Person includes any individual, firm, entity, co-partnership, joint venture, association, corporation, limited liability

company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular, as defined by California Business and Professions Code Section 26001(an), or any successor statute thereto.

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

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

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

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

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

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

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

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

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

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.030 City cannabis license required.

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

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

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

- (1) The appropriate land use approval (use permit, minor use permit, administrative approval, or zoning clearance) from the city, including the appropriate environmental review under the California Environmental Quality Act (CEQA);

(2) The corresponding state license or regulatory approval for the specific cannabis use or activity;

(3) A business license from the city;

(4) A fully executed development agreement or community benefit agreement, if required by the city.

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

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

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

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

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

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

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

(6) *City cannabis storefront retailer license.* A city cannabis storefront retailer license is required for a cannabis business or commercial activity which provides for the retail sale of cannabis and cannabis

products to customers from a fixed location with direct physical access for the public.

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

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

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

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

(1) Five city cannabis manufacturer licenses;

(2) Four city cannabis microbusiness licenses. Of these four microbusiness licenses, a maximum of two microbusinesses may include a storefront retail component, and a maximum of two microbusinesses may include a non-storefront retail component;

(3) Three city cannabis non-storefront retailer licenses;

(4) Three city cannabis storefront retailer licenses;

(5) Two city cannabis distributor Type 11 licenses;

(6) City cannabis distributor transport only Type 13 licenses shall only be issued in conjunction with a corresponding city cannabis license issued by the Chief of Police (such as manufacturing). The number of city cannabis distributor transport only Type 13 licenses shall not exceed the amount of licenses issued for each approved city cannabis license with the exception of a cannabis testing laboratory. No standalone distributor transport only Type 13 license shall be allowed.

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.040 City cannabis license application.

The form and content of the application for a license shall be specified by the Chief of Police and shall include the following minimum information, as applicable to the city cannabis license type:

- (1) *Identifying information for ownership and management.* The name and address for each owner and an explanation of the legal form of business ownership; for example, sole proprietor, partnership, California corporation, etc.
- (2) *Additional identifying information, owners and key employees.* Each cannabis business owner, as well as each employee who makes or will make operational or management decisions that directly impact the business, shall submit electronic fingerprint images, proof of residency, and related information required by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests to be considered as set forth in this chapter. Any changes as to the owner(s), key employee(s) or manager(s) and their respective identifying information shall be promptly submitted to the Chief of Police for supplemental background checks of these individuals.
- (3) *Description of premises.* The address and assessor's parcel number(s) of the location for the proposed commercial cannabis activity, and the name and contact information for the property owner(s) where the proposed commercial cannabis activity will be located.
- (4) *State license type and compliance.* A description of the specific state cannabis license(s) that the cannabis business either has obtained or plans to obtain. The cannabis business shall describe how it will meet the state licensing requirements, and provide supporting documentation as required by the Chief of Police.
- (5) *Other local licenses.* A description of the specific cannabis license or permits that the applicant either has obtained or plans to obtain from other local jurisdictions, agencies, departments, or special districts.

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

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

- a. Preventing individuals from remaining on the premises if they are not engaged in activity expressly related to the operations of the commercial cannabis activity;
- b. Establishing limited access areas accessible only to authorized personnel, including security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products;
- c. Storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale, if applicable;
- d. Including a minimum of a two-point security precaution that incorporates structures or physical barriers to regulate access to cannabis and money and prevents access of customers throughout the entire facility;
- e. Providing tamper-proof and tamper-evident packaging for finished cannabis products;
- f. Preventing off-site impacts to adjoining or nearby properties;
- g. Limiting the amount of cash on the premises and providing a cash management plan for the safe handling and transferring of money;
- h. Identifying the area(s) where distribution activities will occur on private property and outside of public view in a safe and secure environment;
- i. Providing an adequate alarm system;
- j. Providing an adequate security surveillance system. Security surveillance footage shall be retained for a minimum of 14 days and be subject to review and collection by the Police Department upon request. Such footage shall be provided within three days of request. Security surveillance shall include, but not be limited to, the coverage of all ingress and egress to building(s), adjoining parking lot(s), walkways, driveways, or other exterior property space;

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

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

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

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

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

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

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

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

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

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

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

b. Indemnifies, defends and hold harmless to the fullest extent permitted by law the city, its officers, officials, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or

in connection with the licensee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of the city, its officers, officials, agents and employees.

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.050 Review of city cannabis license application and appeals.

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

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

(c) *Appeal of decision.*

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

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

(3) The City Manager shall appoint a Hearing Officer to hear the appeal and determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the Chief of Police shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue

their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.

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

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

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

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

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

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

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

d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

e. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code Section 11370.4 or 11379.8.

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

(4) The granting or renewing of the license would perpetuate or encourage any of the following:

a. Providing or exposing cannabis or cannabis products to minors;

b. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs, cartels, and similar persons;

c. Diversion of cannabis or cannabis products to jurisdictions outside of the state;

- d. Trafficking of other illegal drugs or facilitation of other illegal activity;
- e. Violence and the use of firearms;
- f. The illegal or unauthorized use of public lands in the cultivation of cannabis; or
- g. The use of federal property for commercial cannabis activity.

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

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

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

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

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

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

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

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

(e) *Suspension and revocation.*

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

(2) The Chief of Police shall give notice to the cannabis business of his or her intent to revoke a city cannabis license in the same manner as the notice of the application decision and provide the City Clerk with a copy of the notice.

(3) The hearing for the revocation of the city cannabis license shall be set and conducted in the same manner as an appeal of decision. The decision of the Hearing Officer shall be final.

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.060 City cannabis license term.

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

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

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

(d) *License expiration.* Any city cannabis license approved pursuant to this chapter or pursuant to a competitive

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

(e) *Resubmittal.*

(1) *Resubmittal prohibited within 12 months.* For a period of 12 months following expiration of a cannabis license application or expiration of a cannabis license, no application for the same or substantially similar license for the same site shall be submitted. If a new application is allowed pursuant to subsection (e)(2) of this section, a completely new application shall be filed, including all submittal requirements and current filing fees, in accordance with the requirements of this chapter.

(2) *City determination.* The Planning Division shall determine whether the new application is the same or substantially similar to the expired application or license, and shall issue a written determination to the applicant.

(3) *Appeal.* The determination of the Planning Division may be appealed to the Chief of Police within 10 calendar days of the date of decision. The decision of the Chief of Police shall be final.

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

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

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

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

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.070 City cannabis license transfer or modification.

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

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

- (1) Identifying information for the new cannabis business owner(s) and management as required in an initial city cannabis license application;
- (2) A written certification by the new cannabis business owner as required in an initial license application;
- (3) The specific date on which the transfer is to occur; and
- (4) Acknowledgment of full responsibility for complying with the existing license.

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

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.080 General conditions for all city cannabis licenses.

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

(b) *Sensitive land use.* No cannabis business shall be located within 250 feet of a sensitive land use, as defined in Section [5.80.020](#), except as provided in Section [5.80.060](#)(f) (Sensitive land use hardship) or unless otherwise directed by Council through the competitive selection process. No sensitive land use shall be located in the buffer area that is within 600 feet of the commercial cannabis overlay district (Chapter 18.110).

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

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

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

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

Unresolved or repeated odor complaints may be the basis for suspension or revocation of the city cannabis license or denial of city cannabis license renewal.

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

(h) *Protection of minors.* No cannabis business shall employ anyone who is younger than 21 years of age. No cannabis business shall sell or advertise to sell any cannabis, cannabis product or cannabis accessory to minors, except in circumstances where the minor is over 18 years of age and is permitted or allowed by state

law to purchase or possess medicinal cannabis, as set forth in California Business and Professions Code Section 26140, or any successor statute thereto.

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

- (1) Diversion, theft, loss, or any criminal activity involving the cannabis or cannabis products or any agent or employee of the licensee.
- (2) The loss or unauthorized alteration of records related to cannabis or cannabis products, registered qualifying patients, primary caregivers or employees or agents.
- (3) Significant discrepancies identified during inventory.
- (4) Any other material breach of security.

(j) *Labeling and packages*. Labels and packages of cannabis and cannabis products shall meet all state and federal labeling and packaging requirements.

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

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

(m) *Insurance*. Maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than \$2,000,000 per occurrence and comprehensive automobile liability (owned, nonowned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than \$2,000,000. The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall include an endorsement that specifies the

insurance coverage afforded to the city shall be primary and noncontributory, and shall name the city, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the city cannabis license immediately and, ultimately, revocation.

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

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

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

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

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

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

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

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

(v) *Temporary cannabis events.* Temporary cannabis events shall be prohibited.

(w) *Other agency approvals.* The cannabis business shall be required to obtain approval from the Fire District,

Health Department, and Central Contra Costa Sanitary District.

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.090 Conditions for specific city cannabis licenses.

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

(1) *City cannabis manufacturer license.* All city cannabis manufacturer licenses shall be subject to the following conditions:

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

(2) *City cannabis distributor (Type 11 and Type 13) license.* A city cannabis distributor license shall be subject to the following conditions:

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

(3) *City cannabis delivery.* A city cannabis delivery license (or a retailer [storefront or non- storefront] or microbusiness license conducting sales via delivery) shall comply with all state regulations on cannabis delivery and shall be subject to the following conditions:

- a. Maintain at all times all licenses and permits as required by the state of California, and provide immediate notification to the Chief of Police if any state license or permit is suspended or revoked.
- b. Any person who delivers cannabis to a customer must have in possession a copy of the city cannabis delivery license, which shall be made available upon request to law enforcement.
- c. Delivery of the cannabis shall be directly to the private physical residence of the customer or secure exchange location at the Concord Police Department; deliveries to any other location are prohibited.
- d. No licensee shall transport or cause to be transported cannabis in excess of the limits established by state law during the course of delivering cannabis.

(4) *City cannabis testing laboratory license.* A city cannabis testing laboratory license is subject to the following conditions:

- a. Testing laboratory licensee shall employ at least one full-time quality control personnel.
- b. Testing laboratory licensee shall operate and test all cannabis or cannabis products in accordance with state law.
- c. All testing devices used by testing laboratory licensee must be Underwriters Laboratories (UL) listed or otherwise approved by the city's Building Official and Contra Costa County Fire Protection District.
- d. Testing laboratory licensee must notify the Chief of Police within one business day after the receipt of any notice that its accreditation has been denied, suspended or revoked.

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

- a. An applicant for a microbusiness license shall be subject to a competitive selection process, as established by the City Council, if a storefront retail component is proposed.
- b. Submittal of a dimensioned floor plan showing location of separate components of microbusiness (type of cannabis uses) and their square footage.
- c. If non-storefront retail is proposed, the business shall comply with all conditions included in subsection (6) of this section, with the exception of subsection (6)(a) of this section.
- d. If storefront retail is proposed, the business shall comply with all conditions included in subsection (7) of this section.
- e. If cultivation is proposed:

- i. Outdoor cultivation shall be prohibited.
- ii. Cultivation of cannabis shall be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).
- iii. All cultivation operations shall submit an odor control and mitigation plan with detailed information about the proposed ventilation system, including technical specifications indicating that the system is capable of preventing the release of cannabis odors from the cultivation operation.
- iv. All cultivation operations shall submit a wastewater and water conservation plan.

(6) *City cannabis non-storefront retailer license.* A city cannabis retail non-storefront license is subject to the all of the following conditions:

- a. An applicant for a non-storefront retailer license shall be selected by the City Council as part of a competitive selection process, as established by the City Council.
- b. All cannabis products shall be loaded and unloaded inside a building.
- c. The number, location, and hours of security guards shall be included in the application submittal.
- d. A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.
- e. Any other specific conditions as directed by the City Council as part of the competitive selection process.

(7) *City cannabis storefront retailer license.* A city cannabis retail storefront license is subject to all of the following conditions:

- a. An applicant for a storefront retailer license shall be subject to a competitive selection process, as established by the City Council.
- b. A security plan must include procedures for verifying identification of customers both before entering the retail establishment and again before receiving cannabis or cannabis products.
- c. The number, location, and hours of security guards shall be included in the application submittal.
- d. A theft prevention plan shall be reviewed and approved by the Chief of Police or designee.

- e. On-site security guard(s) shall monitor activity within 150 feet of building entrance to ensure no cannabis consumption is occurring in the vicinity of the business, including parking areas.
- f. A neighborhood responsibility plan that demonstrates how the business will reduce adverse impacts to the surrounding neighborhood, including neighborhood outreach, methods for future communication, and dispute resolution, shall be submitted and approved by the city.
- g. Cannabis and cannabis products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
- h. The business owner shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "reasonable steps" shall include calling the police in a timely manner and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.
- i. The public entrance shall be ADA accessible.
- j. A storefront retail licensee shall not conduct sales exclusively by delivery.
- k. The business owner shall remove litter on and in front of the premises and, if necessary, on public sidewalks within 100 feet of the facility two times, with a minimum of four-hour intervals, each operating day.
- l. Any other specific conditions as directed by the City Council as part of the competitive selection process.

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.100 Prohibited cannabis uses.

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

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

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

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

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

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.110 Fees.

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.120 Taxation. (Reserved)

(Ord. No. 18-3, § 7 (Exh. B))

5.80.130 Penalties.

(a) As set forth in Section 1.05.200, any violation of this chapter or regulation promulgated under this chapter is a misdemeanor punishable pursuant to Section 1.05.230. In the discretion of the City Attorney, misdemeanor violations may be chargeable as infractions pursuant to Penal Code Section 19.6. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged

with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail.

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

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

(d) Any violation of this chapter shall constitute a separate offense for each day the violation occurs or persists and may be subject to an administrative citation and fine, as provided for in Section 8.25.070.

(e) These penalties and remedies are cumulative, and are in addition to any other penalties and remedies available to the city.

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))

5.80.140 Severability – Miscellaneous provisions.

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

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

(Ord. No. 18-3, § 7 (Exh. B); Ord. No. 20-4 § 7 (Exh. A))