



REPORT TO MAYOR AND CITY COUNCIL

TO THE HONORABLE MAYOR AND CITY COUNCIL:

DATE: November 3, 2015

SUBJECT: DEVELOPMENT CODE UPDATE AMENDMENTS TO SECTIONS 18.20.020, PERSONAL SERVICES RESTRICTED USE CLASSIFICATIONS; 18.40.020, SMALL RESIDENTIAL CARE FACILITIES IN OFFICE AND COMMERCIAL DISTRICTS; 18.200.050, CHILD DAY CARE FACILITIES; 18.200.130, MECHANICAL AND ELECTRONIC GAMES; 18.200.200, TEMPORARY EVENTS, USES, AND STRUCTURES; SECTION 18.415.100, DECISIONS AND FINDINGS; 18.505.020, TIME LIMITS AND EXTENSIONS; AND 18.540.090, LIMITATIONS OF ACTIONS

Report in Brief

This staff report focuses on this year's proposed annual Development Code updates, consideration of which was continued from the September 8, 2015 and October 6, 2015 City Council meetings, re-noticed, and rescheduled for November 3, 2015. As detailed in the September 8, 2015 report to the City Council, the Planning Commission recommended the City Council approve certain Development Code amendments.

After discussion at the September 8, 2015 City Council hearing, the City Council directed staff to conduct additional research and make revisions to the proposed Development Code amendments. Following the outcome of the discussion at the September 8, 2015 City Council meeting, staff is recommending that the proposed Development Code Updates involving Fortune Tellers, Palm and Card Readers, and Psychic Readers (Section 18.20.20), Child Day Care Facilities (18.200.050), Temporary Events, Uses, and Structures (Section 18.200.200), and Decisions and Findings (Section 18.415.100), not be included within Ordinance 15-8, and may instead be brought forward for Council consideration at a later date.

Consequently, the text of Ordinance 15-8 proposes changes only to the following Development Code Sections: 18.20.020 Use Classifications - Hookah Lounges, 18.40.020 Small Residential Care Facilities, 18.200.130 Mechanical and Electronic Games, 18.505.020 Time Limits and Extension, and 18.540.090 Limitation of Actions; which are attached hereto as Exhibits A through E to Ordinance 15-8 incorporated therein by reference ("Amendment").

I. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), the Amendment does not constitute a "project" within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

**DEVELOPMENT CODE UPDATE AMENDMENTS TO SECTIONS 18.20.020,
PERSONAL SERVICES RESTRICTED USE CLASSIFICATIONS; 18.40.020,
SMALL RESIDENTIAL CARE FACILITIES IN OFFICE AND COMMERCIAL
DISTRICTS; 18.200.050, CHILD DAY CARE FACILITIES; 18.200.130,
MECHANICAL AND ELECTRONIC GAMES; 18.200.200, TEMPORARY EVENTS,
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Even if the Amendment did constitute a project under CEQA, the Amendment falls within the “common sense” exemption set forth in 14 Cal. Code Regs. Section 15061(b)(3), excluding projects where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment...”. Any future project resulting from the Amendment will be subject to CEQA and evaluated on a case-by-case basis.

II. Discussion and Analysis of Proposed Development Code Amendments

18.20.020 Personal Services Restricted Use Classifications - Exhibit A

Prohibition of Hookah Lounges

“Personal Services, Restricted” is a land use classification (Section 18.20.020) that is defined as “an establishment that provides personal services that tend to have a negative economic impact upon surrounding areas and may need to be dispersed to minimize their adverse impacts.” “Personal Services, Restricted” designated land uses require either a Use Permit or Minor Use Permit prior to commencing with their business operations, depending on the requirements of each individual zoning district. The Planning Commission and staff are recommending that Hookah Lounges be prohibited and deleted from the “Personal Services, Restricted” category.

Following the Planning Commission’s discussion regarding hookah lounges at the October 17, 2014 study session, the Planning Commission directed staff to prepare a draft ordinance that would effectively prohibit new hookah lounge business from opening or existing hookah lounge businesses from expanding in the City of Concord. This direction is consistent with prior City policies and ordinances regarding tobacco use, including the City’s prohibition on smoking in the workplace.

The State of California’s 1994 Smokefree Workplace Act, which is codified under California Labor Code Section §6404.5, prohibits hookah lounges and other tobacco-oriented businesses with on-site smoking from serving and consuming food and drink. The City of Concord’s Chapter 8.35, Smoking in Public Places and Workplaces, prohibits entertainment uses at tobacco-oriented businesses with on-site smoking.

The City of Concord currently has two hookah lounges in operation, neither of which primarily operates as a retail tobacco store. These two businesses will become legal non-conforming uses should the prohibition take effect, in that they may continue to operate but would not be allowed to expand.

Fortune Tellers, Palm and Card Readers, and Psychic Readers

Staff is conducting additional review and respectfully recommends that any resultant changes be brought forward for consideration at a later date.

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

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

It is legal for Small Residential Care Facilities to exist and operate within the Community Office zoning district, but the current Table of Permitted Uses does not correctly identify this provision.

The Planning division recently noticed that a portion of a table identified in Section 18.40.020, Office and Commercial Districts, was not in conformance with Sections 1568 and 1569 of the California Health and Safety Code, most likely due to a clerical error. The proposed Development Code correction would restore the allowance of a Small Residential Care Facility in the Community Office zoning district by correctly identifying it as being a permitted use (“ZC”) in the Table of Permitted Uses (the minor change is on the bottom of Exhibit B, Page 7 of 8, under the first column).

18.200.050 Child Day Care Facilities

Staff is conducting additional review and respectfully recommends that any resultant changes be brought forward for consideration at a later date..

18.200.130 Mechanical and Electronic Games – Exhibit C

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

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

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

The proposed amendments to the Development Code in this section would maintain the City's enforcement ability while simplifying and streamlining the process for legitimate businesses by allowing the use of mechanical and electronic games with an Administrative Permit. This Administrative Permit approval may be issued over the counter at the Permit Center, rather than through a Use Permit application process.

Restrictions related to the hours of operation, distance from residences, and the police background check requirement would also be eliminated, though the City will retain the ability to require these as a condition of approval imposed on the Administrative Permit if needed. The presence of a responsible manager would continue to be required. In addition, retail businesses which sell vintage games as well as schools, museums, cultural centers, and public libraries would be exempted from the Administrative Permit requirement altogether. The proposed code amendment is substantially more business friendly while still allowing an appropriate level of oversight and regulation.

18.200.200 Temporary Events, Uses, and Structures

Staff is conducting additional review and respectfully recommends that any resultant changes be brought forward for consideration at a later date.

18.415.100 Decisions and Findings

Staff is conducting additional review and respectfully recommends that any resultant changes be brought forward for consideration at a later date.

18.505.020 Time Limits and Extension – Exhibit D

This Section is proposed to be amended to extend the minimum timeframe for any permit or approval to obtain building permits from 12 to 24 months. As a practical matter, complex projects often require more than one year of time between Planning Commission or City Council approval and submitting an application for building permits.

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In addition, these revisions would also allow the reviewing authority (such as the Planning Commission or the City Council) the ability to provide building permit time extensions of up to 24 months, rather than the current maximum of 12 months. The City's code only allows for one time extension to be granted in this provision would stay in place. The amount of time permitted for each time extension would still be considered on a case-by-case basis. This code provision does not apply to tentative subdivision maps, which have timeframes regulated by State law under the Subdivision Map Act. Active projects which have previously requested a time extension would be able to apply for a further 12 month extension.

18.540.090 Limitation of Actions – Exhibit E

Minor edits include the deletion of references in the Development Code to State statutes that no longer exist. California Government Code Section 65907 involving severability is still referenced in the Development Code, even though the State code section was changed some years ago and no longer applies. This proposed code deletion will have no effect on any provisions of the Development Code.

Fiscal Impact

The adoption of the proposed Development Code updates will have no fiscal impact on the City.

Public Contact

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

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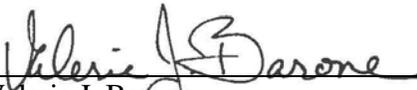
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Recommendation

Staff recommends the City Council introduce Ordinance No. 15-8 by reading of the title only and waiving further readings.

Staff further recommends that potential Development Code updates involving Fortune Tellers, Palm and Card Readers, and Psychic Readers (Section 18.20.20), Child Day Care Facilities (Section 18.200.050), Temporary Events, Uses, and Structures (Section 18.200.200), and Decisions and Findings (Section 18.415.100) may be brought forward for City Council consideration at a later date. These items have not been included with the attached Ordinance No. 15-8.



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Attachments:

1. Ordinance 15-8

Exhibits to Ordinance 15-8

2. Exhibit A: 18.20.020 Use Classifications
3. Exhibit B: 18.40.020 Small Residential Care Facilities
4. Exhibit C: 18.200.130 Mechanical and Electronic Games
5. Exhibit D: 18.505.020 Time Limits and Extension
6. Exhibit E: 18.540.090 Limitation of Actions

ORDINANCE NO. 15-8

AN ORDINANCE AMENDING THE CONCORD MUNICIPAL CODE, TITLE 18, DEVELOPMENT CODE, CHAPTERS 18.20.020 (USE CLASSIFICATIONS), 18.40.020 (SMALL RESIDENTIAL CARE FACILITIES), 18.200.050 (CHILD DAY CARE FACILITIES), 18.200.130 (MECHANICAL AND ELECTRONIC GAMES), 18.200.200 (TEMPORARY EVENTS, USES, AND STRUCTURES), 18.415.100 (DECISIONS AND FINDINGS), 18.505.020 (TIME LIMITS AND EXTENSIONS), AND 18.540.090 (LIMITATION OF ACTIONS)

WHEREAS, California Government Code section 65800 et seq. provides for the amendment of any and all adopted City of Concord (“City”) zoning laws, ordinances, rules and regulations; and

WHEREAS, the City has complied with the requirements of the Local Planning Law (Government Code section 65100 *et seq.*), and the City’s applicable ordinances and resolutions with respect to approval of amendments to Title 18 of the Concord Municipal Code (“Development Code”); and

WHEREAS, the City of Concord has, from time to time, made amendments to the Development Code to address changes in circumstances; and

WHEREAS, on July 24, 2012, the City Council adopted Chapter 122 of the Concord Municipal Code to ensure consistency with General Plan policies, and an update of its zoning maps to ensure consistency with the adopted General Plan Map; and

WHEREAS, on July 22, 2014, the City Council adopted Ordinance No. 14-2, which reformatted and renumbered Chapter 122 into Title 18 of the Concord Municipal Code; and

WHEREAS, the City of Concord initiates regular and routine Development Code Clean-Up Amendments to comply with State legislative actions, to ensure consistency, and to address minor technical errors, omissions, and clarifications of terms and procedures in the Development Code; and

WHEREAS, such text amendments improve the accuracy of the Development Code and its standards by achieving internal consistency and consistency with the rest of the Concord Municipal Code; and

WHEREAS, it is in the interest of the City Council of the City of Concord to discourage tobacco use and promote the public health by prohibiting hookah lounges; and

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

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

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

13 **WHEREAS**, on July 15, 2015, the Planning Commission, after consideration of all pertinent
14 plans, documents, and testimony, adopted Resolution No. 15-09PC did recommend City Council
15 approval of the foregoing CEQA determination and approval of the Amendment by a 4-0 vote; and

16 **WHEREAS**, on September 8, 2015 the City Council considered the proposed amendments to
17 the Development Code and directed staff to conduct additional research and make certain revisions
18 thereto; and

19 **WHEREAS**, staff has completed revisions to the following Development Code Sections:
20 18.20.020 Use Classifications - Hookah Lounges, 18.40.020 Small Residential Care Facilities,
21 18.200.130 Mechanical and Electronic Games, 18.505.020 Time Limits and Extension, and
22 18.540.090 Limitation of Actions; which are attached hereto as Exhibits A through E and incorporated
23 herein by this reference (“Amendment”); and

24 **WHEREAS**, because potential Development Code Updates involving Fortune Tellers, Palm
25 and Card Readers, and Psychic Readers (Section 18.20.20), Child Day Care Facilities (18.200.050),
26 Temporary Events, Uses, and Structures (Section 18.200.200), and Decisions and Findings (Section
27 18.415.100), are not yet complete, they not are included within Ordinance 15-8, and may instead be
28 brought forward for City Council consideration at a later date; and

1 **WHEREAS**, pursuant to the California Environmental Quality Act of 1970, Public Resources
2 Code § 21000, et seq. and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California
3 Code of Regulations, all as amended (collectively, “CEQA”), the Amendment does not constitute a
4 “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code Regs. Section
5 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a direct physical
6 change in the environment, or a reasonably foreseeable indirect physical change in the environment.
7 Even if the Amendment did constitute a project under CEQA, the Amendment falls within the
8 “common sense” exemption set forth in 14 Cal. Code Regs. Section 15061(b)(3), excluding projects
9 where “it can be seen with certainty that there is no possibility that the activity in question may have a
10 significant effect on the environment...”; and

11 **WHEREAS**, the City Council, after giving all public notices required by State Law and the
12 Concord Municipal Code, held a duly noticed public hearing on November 3, 2015, on the
13 Amendment; and

14 **WHEREAS**, at such public hearing, the City Council considered all oral and written
15 information, testimony, and comments received during the public review process, including the PC
16 Amendment Information, information received at the public hearing, the oral report from City staff,
17 the written report from City staff dated November 3, 2015, materials, exhibits presented, and all other
18 information that constitutes the record of proceedings on which the City Council has based its
19 decision are maintained at the offices of the City of Concord City Clerk.

20 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES**
21 **ORDAIN AS FOLLOWS:**

22 **Section 1.** Pursuant to the California Environmental Quality Act of 1970, Public Resources
23 Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of
24 the California Code of Regulations (collectively, “CEQA”), the Development Code Amendment does
25 not constitute a “project” within the meaning of Public Resources Code Section 21065, 14 Cal Code
26 Regs. Section 15060(c)(2), 15060(c)(3), or 15378 because it has no potential for resulting in either a
27 direct physical change in the environment, or a reasonably foreseeable indirect physical change in the
28 environment. Even if the Amendment did constitute a project under CEQA, the Amendment falls

1 within the “common sense” exemption set forth in 14 Cal. Code Regs. Section 15061(b)(3), excluding
2 projects where “it can be seen with certainty that there is no possibility that the activity in question
3 may have a significant effect on the environment...”. Any future project resulting from the
4 Amendment will be subject to CEQA and evaluated on a case-by-case basis. The determination that
5 these exemptions apply to the Amendment reflects the independent judgment and analysis of the City
6 as the lead agency.

7 **Section 2.** The City Council hereby finds that: (a) the recitals above are true and correct
8 and are incorporated herein by reference; (b) the Amendment is consistent with the goals, objectives,
9 and policies of the Concord General Plan and is necessary in order to improve the accuracy of the
10 Development Code and its standards and further achieve internal consistency and consistency with the
11 rest of the Concord Municipal Code; (c) the Amendment is consistent with the General Plan because it
12 does not create any new or changed conditions to the environment, is intended to encourage and
13 enhance economic activity, and allow for the continued high quality of development in the City of
14 Concord; (d) the Amendment will not be detrimental to the public interest, health, safety,
15 convenience, or welfare of the City; and (e) it is in the interest of the City Council of the City of
16 Concord to discourage tobacco use and promote the public health by prohibiting hookah lounges.

17 **Section 3.** The City Council does hereby pass and adopt this Ordinance No. 15-8.
18 Concord Municipal Code Title 18 (Development Code) is hereby amended as identified on Exhibits A
19 through E, attached hereto and incorporated herein by this reference.

20 **Section 4.** This Ordinance No. 15-8 shall become effective thirty (30) days following its
21 passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire
22 Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City
23 Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption,
24 including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney’s
25 Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and
26 once within fifteen (15) days after its passage and adoption, including the vote of the
27 Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of
28 Concord.

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Timothy S. Grayson
Mayor

ATTEST:

Joelle Fockler, CMC
City Clerk

(Seal)

Ordinance No. 15-8 was duly and regularly introduced at a regular meeting of the City Council of the City of Concord held on November 3, 2015, and was thereafter duly and regularly passed and adopted at a regular meeting of the City Council of the City of Concord on December 1, 2015, by the following vote:

- AYES:** Councilmembers -
- NOES:** Councilmembers -
- ABSTAIN:** Councilmembers -
- ABSENT:** Councilmembers -

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

Joelle Fockler, CMC
City Clerk

- Exhibit A: 18.20.020 Use Classifications
- Exhibit B: 18.40.020 Small Residential Care Facilities
- Exhibit C: 18.200.130 Mechanical and Electronic Games
- Exhibit D: 18.505.020 Time Limits and Extension
- Exhibit E: 18.540.090 Limitation of Actions

Exhibit A

18.20.020 Use classifications.

Personal Services.

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

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

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

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

1. Bail bonds.
2. Fortune tellers.

~~3. Hookah lounges.~~

4. 3. Massage parlors.

5. 4. Palm and card readers.

6. 5. Pawn shops.

7. 6. Psychic readers.

8. 7. Spas and hot tubs for hourly rental.

9. 8. Tattoo and body piercing services.

Exhibit B

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

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

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

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

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

Improvement, Instructional	–	ZC	ZC ⁽²⁾	ZC	ZC	
Restricted	–	–	MP	MP	MP	
Repair Service, Appliance and Small Equipment	–	–	UP	ZC	–	
Retail Sales						
Big Box	–	UP	UP	UP	UP	
General	–	ZC ⁽⁴⁾	ZC	ZC	ZC	
Nursery, Garden Center	–	UP	ZC	ZC	ZC	CDC 18.200.160, Outdoor sales and displays
Restricted	–	–	MP	MP	MP	
Retail Sales with Drive-Through	–	UP	UP	UP	UP	CDC 18.200.060, Drive-through facilities
Secondhand Sales	–	AP	AP	AP	–	

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

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

Hospital, Medical Center	-	-	-	-	-	
Medical Marijuana Dispensary	-	-	-	-	-	
Medical Clinic	ZC	-	ZC ⁽²⁾	ZC ⁽²⁾	ZC	
Nursing Facility/Extended Care	-	UP	UP	UP	-	
Urgent Care Facility	ZC	ZC ⁽⁴⁾	ZC ⁽²⁾	ZC	ZC	
Meeting Facility, Public/Private	UP	UP	UP	UP	UP	
Military	-	-	-	-	-	
Parking Facility	AP	-	AP	AP	AP	
Public Maintenance and Service Facility	-	-	-	AP	-	
Recreational Facilities						
Bingo Hall	-	-	-	-	UP	
Commercial Recreation, Indoor	-	AP ⁽⁴⁾	AP	UP	ZC	
Golf Course, Country Club	-	-	-	-	-	CDC 18.200.130, Mechanical and electronic games
Park and Recreation Facility	-	-	-	-	-	
Residential Recreation Facility	-	AP ⁽⁵⁾	-	-	-	
Sports and Entertainment, Assembly	-	-	UP	-	UP	CDC 18.200.080, Entertainment uses
Sports and Recreation Facility	-	-	UP	-	UP	CDC 18.200.130, Mechanical and electronic games
Recycling Facilities						
Small Collection Facility	-	-	AP	AP	AP	CDC 18.200.170, Recycling facilities
Large Collection Facility	-	-	-	UP	-	CDC 18.200.170, Recycling facilities
Processing Facility	-	-	-	-	-	CDC 18.200.170, Recycling facilities
Religious Facility	UP	UP	UP	-	-	

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

						units
Mixed-Use Projects	UP	AP	UP	–	–	
Mobile Home Park	–	–	–	–	–	
Residential Care Facility, Small	ZC ⁽⁵⁾	ZC ⁽⁵⁾	–	–	–	
Residential Care Facility, Large	–	MP	–	–	–	
Residential Facility for Seniors, Assisted Living	–	UP	UP	–	–	
Work/Live Unit	–	–	–	AP	–	CDC 18.200.110, Live/work or work/live units

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

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

Exhibit C

18.200.130 Mechanical and electronic games.

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

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

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

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

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

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

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

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

~~E. Chief of Police Recommendation. All applications shall be referred to the chief of police for review and comment. In addition to the general authority to deny a minor use permit or use permit established in Chapter 18.435-CDC (Minor Use Permits and Use Permits), the review authority~~

~~shall deny an application based upon the chief of police's recommendation, for any of the following reasons:~~

- ~~1. The applicant has been convicted of, or has pled no contest to, one or more of the following offenses:
 - ~~a. A crime requiring registration under Penal Code Section 290;~~
 - ~~b. Violation of Penal Code Section 311.2, 311.4, 311.5, 315, 316, 318, 647(a), 647(b), or 647(d), or of any comparable section of any other state's statutes;~~
 - ~~c. Violation of any provision of Penal Code Part I, Title 9C.10 (Penal Code Section 330, et seq.), or of any comparable section of any other state's statutes; or~~
 - ~~d. A crime requiring registration under Health and Safety Code Section 11590.~~~~
- ~~2. The applicant has knowingly made any false, misleading, or fraudulent statement of facts in the permit application or any other document required by the city.~~
- ~~3. The applicant has had a similar license revoked for good cause within the last year, unless the applicant shows a material change in circumstances since the date of revocation.~~

~~F. General Requirements.~~

- ~~1. Adult Manager Required. At least one adult manager (18 years of age or 21 or over if serving alcohol) shall be on the premises during the time the mechanical and electronic games are open to the public.~~
- ~~2. Manager's License. The permit shall be reviewed and approved by the chief of police. A use permit or minor use permit shall not be approved if the chief of police finds that the applicant has been convicted of or committed any of the offenses in subsection (E)(1) of this section.~~
- ~~3. Hours of Operation for Minors Under 18 Years of Age. Operators of establishments with mechanical and electronic games are prohibited from allowing any minor to play any mechanical or electronic game located on any premises open to the public during the following times:
 - ~~a. Between 7:00 a.m. and 3:30 p.m. on weekdays during the academic school year of the Mt. Diablo Unified School District, unless the weekday is a school holiday for the District.~~
 - ~~b. After 10:00 p.m. Sunday through Thursday throughout the year.~~
 - ~~c. After midnight on any Friday or Saturday throughout the year.~~~~
- ~~4. Hours Posted. All establishments subject to this section shall post, in a conspicuous place near the games, a notice with the above time restrictions, including the statement: "Pursuant to CDC 18.200.130." The lettering on the notice shall be at least two inches in height, of one-half inch stroke, and in a color contrasting with the background.~~
- ~~5. Conditions. The review authority may impose reasonable restrictions on the physical design, location, and operation of an establishment with mechanical and electronic games in~~

~~order to minimize the effects of noise, congregation, parking, and other nuisance factors that may be detrimental to the public health, safety, and welfare of the surrounding community.~~

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

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

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

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

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

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

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

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

Exhibit D

18.505.020 Time limits and extensions.

A. Time Limits.

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

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

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

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

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

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

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

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

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

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

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

- a. The requested extension is consistent with the general plan and any applicable specific plan, and the overall project remains consistent with those plans as they exist at the time the extension request is being considered;
- b. The findings required by the original approval remain valid; and
- c. There are adequate provisions for public services and utilities (e.g., access, drainage, fire protection, sewers, water, etc.) to ensure that the requested extension would not endanger, jeopardize, or otherwise constitute a hazard to the public health, safety, or general welfare, or be injurious to the property or improvements in the vicinity and applicable zoning district.

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

Exhibit E

18.540.090 Limitation of actions.

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

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

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