

ORDINANCE NO. 2066-C-S

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING SECTION 9-5.203 AND ADDING SECTION 9-5.3836 TO
THE ANTIOCH MUNICIPAL CODE, DEALING WITH
COMMUNITY SUPERVISION PROGRAMS**

The City Council of the City of Antioch does ordain as follows:

SECTION 1. The City Council finds as follows:

- A. On October 1, 2011 the Public Safety Realignment Act (Assembly Bill 109) went into effect transferring responsibility for supervising specific inmates and parolees from the California Department of Correction and Rehabilitation to counties; and
- B. In response to AB 109, the Contra Costa County Board of Supervisors approved an AB 109 Public Safety Realignment Budget which includes \$4,035,000 for community programs including employment support and placement services, resource centers, short and long term housing access, and peer and mentoring services. Contra Costa County has issued a Request for Proposals for these services. Private, public, for-profit, and not-for-profit organizations are able to apply for these funds and the services would be provided at various unspecified locations County-wide; and
- C. Article XI, Section 7 of the California Constitution provides a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws; and
- D. The City has received and anticipates additional requests for the construction, establishment and operation of Community Supervision Programs (as defined herein) within the City. However, this use is not defined in the Antioch Municipal Code and the general category of "Business and Professional Office" may not take into account potential impacts of Community Supervision Programs on the surrounding community such as loitering and increased calls for service and particularly impacts on sensitive uses such as schools and parks. The provisions of the City Municipal Code that may regulate the construction, operation and establishment of Community Supervision Programs in the City are inadequate and need review, study, and revision. The current

provisions also fail to fully take into account the impacts related to the location and manner of construction, establishment and operation of Community Supervision Programs, and the related public health, safety, and welfare concerns, including but not limited to the impacts they may have on surrounding uses and the community; and

- E. The 2011 Adult Institutions Outcome Evaluation Report by the California Department of Corrections and Rehabilitation, which was attached to the staff report presented to the City Council on March 26, 2013 and is referenced with these findings, indicates most recidivists return to prison within the first year of release, 46% of the recidivists returned to prison after only 6 months of release, and 75% returned to prison within 12 months of release. Further, the CDCR report discusses arrests rates and states that average arrest rate for inmates released for one, two and three-year periods are 57.2%, 70.7%, and 76.7% respectively; and
- F. Widely reported news stories regarding adverse impacts of AB 109 were also attached to the staff report presented to the City Council on March 26, 2013 and are on file with the City Clerk and on the City's website at www.ci.antioch.ca.us. It is reasonable to conclude that similar adverse impacts on the public health, safety and welfare will likely also occur in the City of Antioch; and
- G. The City of Antioch's crime rate for Part 1 crimes has increased 24% from 2011 to 2012 while arrests are down 14% in the same period as more particularly described in the presentation by the Police Chief at the City Council meeting on February 12, 2013 which can be viewed at <http://ci.antioch.ca.us/CityGov/CouncilMeetings/021213/>; and
- H. The number of sworn police officers available to serve the City per capita has decreased significantly due to budget considerations. In 1995 the number of sworn police officers was 89 and the population was 74,925. Currently, the number of sworn police officers is 89 and the population is 103,833; and
- I. Statistics have been collected on Post Release Community Supervision individuals in Antioch and found that 35% have been rearrested; and
- J. While the intent of support programs is to reduce recidivism and assist individuals in becoming productive members of society, there is potential

for negative impacts to the public health, safety, and welfare if Antioch received a disproportionate number of service providers or these service providers were concentrated near sensitive or certain other uses. This ordinance would define appropriate locations and concentration, distances from sensitive uses such as schools and parks, and operational requirements; and

- K. Locating programs in areas where they are more likely to succeed will result in greater program benefit to those seeking services and to the community as a whole. For example, there should be a dialog about locating Community Supervision Programs near public transportation. Also, there should be dialog about whether to locate such Community Supervision Programs near a liquor store that may undermine the success sought by these programs, given the documented substance abuse issues with a high percentage of individuals on probation and parole; and
- L. The requirement for a use permit if a Community Supervision Use is located within 1,000 feet of a public or private school, park, recreation center, senior age restricted living facility or other Community Supervision Program allows for many locations where these uses are permitted by right and the 1,000-foot requirement is similar to the requirements in the Municipal Code for adult entertainment and adult boutique uses, as well the 1,500-foot safe school zones in California Penal Code section 626 and less than the 2,000-foot residence requirements for Penal Code section 290 registrants; and
- M. Based on the foregoing, the City finds that this Ordinance is necessary in order to protect the City from the potential effects and impacts of Community Supervision Programs in the City, potential increases in crime and other similar or related effects on property values and the quality of life in the City's neighborhoods and to assist in the proper placement of these uses to ensure a greater likelihood of success; and
- N. The City Council further finds that this zoning regulation is a matter of local and City-wide importance and is not directed towards any particular business that currently seeks to construct or operate a Community Supervision Program; and

- O. The City Council finds that this Ordinance is authorized by the City's police powers. The City Council further finds that this Ordinance will not in any way deprive any person of rights granted by State or federal laws.

SECTION 2. Section 9-5.203 of the Antioch Municipal Code is amended to add the following definition:

COMMUNITY SUPERVISION PROGRAM. Any facility, building, structure or location, where an organization, whether private, public, institutions of education, not for-profit, or for-profit, provide re-entry services to previously incarcerated persons or persons who are attending programs in-lieu of incarceration including, but not limited to: employment support and placement services, short and long term housing access including residential facilities not licensed by the State of California, peer and mentoring services, and resource centers. Included in this definition are services provided to individuals on probation or parole.

SECTION 3. Section 9-5.3836 is hereby added to the Antioch Municipal Code, to read as follows:

Sec. 9-5.3836 Community Supervision Programs.

(A) Subject to the operational requirements listed in subsection (B), Community Supervision Programs shall be allowed in any zone where Business and Professional Offices are permitted or conditionally permitted in Section 9-5.3803 of the Antioch Municipal Code; Table of Land Use Regulations. However, such use shall be subject to approval of a use permit if located within a zone that requires a use permit for a Business and Professional Office use or if the use is within 1,000 feet of a public or private school, park, recreation center, senior age restricted living facility or other Community Supervision Program. This distance shall be a radial distance measured from property line to property line.

(B) Operational requirements for Community Supervision Programs are as follows:

- (1) Hours of operation shall be between 8:00am to 10:00pm.
- (2) No congregation outside the premises shall be permitted.
- (3) If program participants will be at the facility for more than two hours, an outdoor designated smoking area screened from public view shall be provided.

(C) The Planning Commission or City Council may grant relief from any of the requirements of this section.

SECTION 4. Severability.

If any provision of this ordinance or the application to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council of the City of Antioch hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. CEQA.

Pursuant to CEQA Guidelines Section 15061(b)(3), this ordinance is not subject to CEQA because the Municipal Code amendments are more restrictive than current regulations and will not cause a direct or reasonably foreseeable indirect physical change in the environment. Specifically:

- A. This ordinance is not a project within the meaning of Section 15378 of the State CEQA (California Environmental Quality Act) Guidelines, because it has no potential for resulting in physical change in the environment, directly or ultimately.
- B. This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation and policies.
- C. This ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. For the reasons set forth in subparagraphs (1) and (2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

SECTION 6. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 7. Publication; Certification. The City Clerk shall certify to the adoption of this Ordinance and cause same to be published in accordance with State law.

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 23rd day of April, 2013 and adopted at a regular meeting of the City Council of the City of Antioch on the 14th of May, 2013, by the following vote:

AYES: Council Members Wilson, Tiscareno, Agopian and Mayor Harper

NOES: None.

ABSTAINED: None.

ABSENT: None.

RECUSED: Council Member Rocha

/s/ Wade Harper

Wade Harper, Mayor of the City of Antioch

ATTEST:

/s/ Arne Simonsen

Arne Simonsen, City Clerk of the City of Antioch

COMMUNITY SUPERVISION PROGRAMS

The City of Antioch has adopted the attached ordinance regulating Community Supervision Programs. It is the intent of the City of Antioch to assist Community Supervision Programs in locating in areas where they can be the most successful.

A map of areas where Community Supervision Programs can locate “by right,” shown in green, and with a Use Permit, shown in yellow, is also attached.

“By right” means that there is no public hearing required and service providers can move in by obtaining a City of Antioch Business License and a Building Permit, if required for tenant improvements, signage, etc. The use will still be required to comply with the operational requirements of:

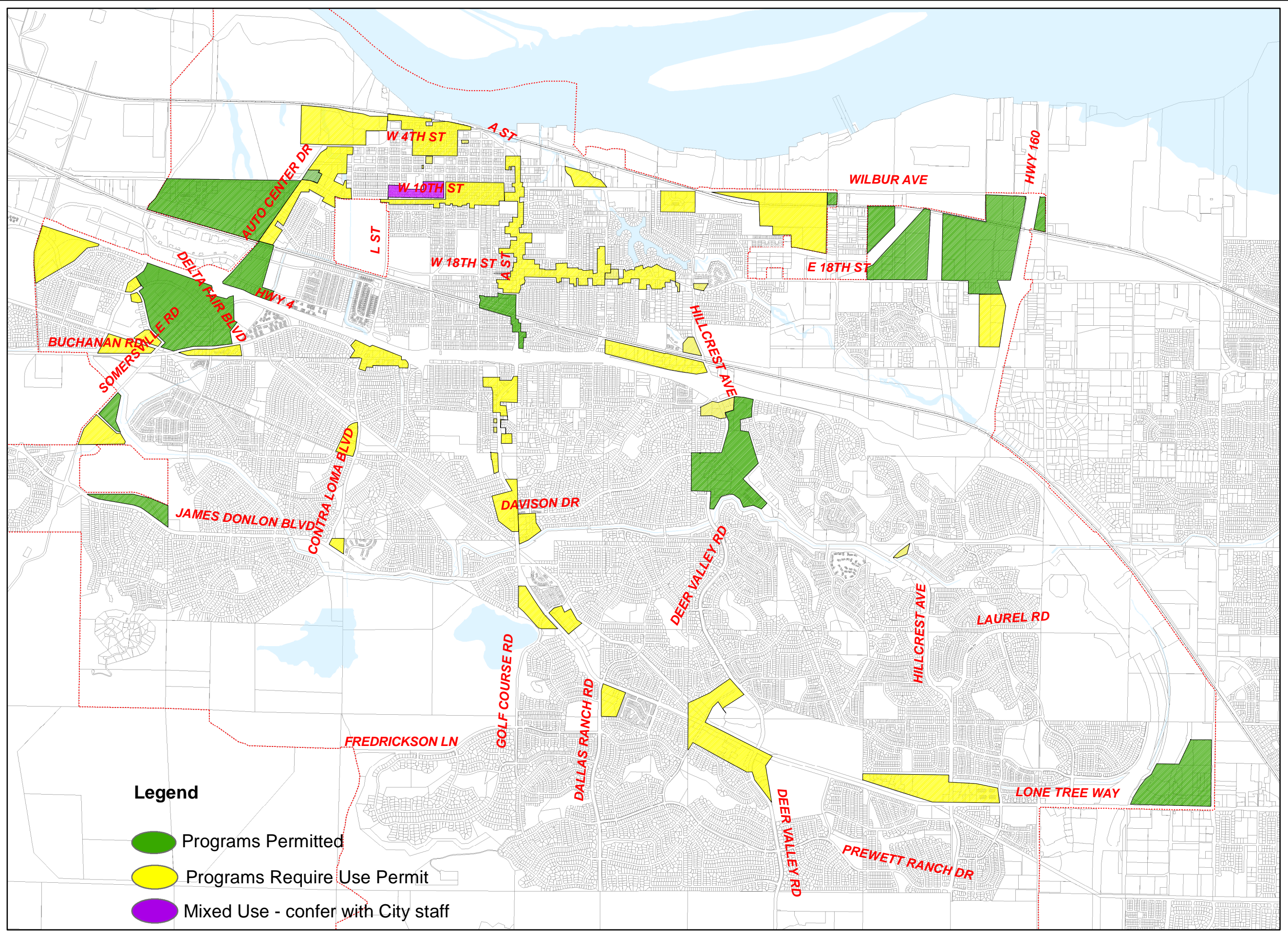
- 1) Hours of operation shall be between 8:00 a.m. to 10 p.m.
- 2) No congregation outside the premises shall be permitted.
- 3) If program participants will be at the facility for more than two hours, an outdoor designed smoking area screen from public view shall be provided.

If these requirements pose a challenge, please make an appointment with staff to discuss options.

A Use Permit requires a public hearing and will have conditions of approval depending on the unique circumstances of the proposed location. A Use Permit can also be denied if proper findings are made. The City of Antioch Use Permit application to occupy an existing building is available at the Community Development Department or <http://ci.antioch.ca.us/CityGov/CommDev/PlanningDivision/docs/Tenant-Change-UP-Application.pdf>. This application contains detailed information about the Use Permit process.

If you are proposing to construct a new structure from the ground up please make an appointment with staff as there is a different application and design review process for new structures.

Staff is available if you have questions about the attached map or in determining if a specific lease space is located in a ‘by right’ area. Please note that staff does not have professional commercial real estate resources to direct you to available lease space but can assist you or your agent once a potential location is found.



Legend

- Programs Permitted
- Programs Require Use Permit
- Mixed Use - confer with City staff