

**PLANNING COMMISSION
RESOLUTION # 2022-32**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ORDINANCE AMENDING
SECTIONS 9-5.3801 AND 9-5.3845 OF THE ANTIOCH MUNICIPAL CODE REGARDING
CANNABIS BUSINESSES**

WHEREAS, §§ 9-5.3801 and 9-5.3845 of the Antioch Municipal Code (“AMC”) establish the regulatory requirements for cannabis businesses in the City of Antioch;

WHEREAS, cannabis businesses are an important part of the local economy, offer employment while eliminating commuting and its associated environmental impacts, pay fees and taxes, and make contributions to local non-profit organizations through social equity programs that are required for all cannabis businesses in the City;

WHEREAS, the ordinance identifies three additional areas (Cannabis Business (“CB”) districts) where limited types of cannabis businesses may be allowed (§9-5.3801), thus protecting against a concentration of cannabis businesses within any single community;

WHEREAS, the ordinance specifies which types of cannabis businesses would be allowed in each Cannabis Business district (§9-5.3845), enabling a more suitable match between the location and the type of cannabis business;

WHEREAS, the ordinance identifies the buffers between retail cannabis businesses and between any cannabis business and a sensitive use (§9-5.3845);

WHEREAS, the ordinance clarifies that exceptions relating to natural barriers apply to all, not just retail, cannabis businesses and corrects a typographical error (§9-5.3845);

WHEREAS, the ordinance is not considered a project under the California Environmental Quality Act under the common sense exemption (CEQA Guidelines 150361(b)(3)) because it will not have a direct or reasonably foreseeable indirect physical change or effect on the environment. The ordinance does not change the existing zoning in the affected areas; rather, the ordinance is an overlay on the existing zoning, already approved and adopted by the City;

WHEREAS, a public hearing notice was published in the East County Times and posted in three public places pursuant to California Government Code Section 65090 on November 4, 2022 for the public hearing held on November 16, 2022; and

WHEREAS, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission does hereby make the following findings pursuant to Section 9-5.2802 “FINDINGS REQUIRED” (A) (1-4) of the Antioch Municipal Code for recommendation to the City Council for approval of the proposed zoning change:

1. That the proposed zone reclassification will allow uses more suitable for the site than the present classification.

Finding: The proposed expansion of CB 4, 5, and 6 Overlay Districts creates an opportunity for cannabis businesses and cannabis retail. This creates an opportunity for economic development and opportunity.

2. That uses permitted by the proposed zoning will not be detrimental to adjacent or surrounding properties.

Finding: The proposed CB 4, 5, and 6 Overlay Districts are surrounded by compatible land uses including retail and industrial uses. The expanded districts are not expected to create adverse impacts.

3. That evidence has been presented documenting land use changes in the area to warrant a change in zoning.

Finding: The proposed ordinance amendments further refine and enhance potential locations for cannabis businesses meeting the interests of City residents and existing businesses.

4. That the requested zoning change is in conformance with the General Plan.

Finding: The proposed zoning text amendments are compliant with the General Plan.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Antioch does hereby **RECOMMEND** that the City Council adopt an ordinance amending the Antioch Municipal Code §§9-5.3801 and 9-5.3845 as proposed in the draft ordinance attached hereto as Exhibit A.

* * * * *


I HEREBY CERTIFY the foregoing resolution was duly adopted by the Planning Commission of the City of Antioch at a regular meeting thereof held on the 16th day of November, 2022.

AYES: Gutilla, Hills, Lutz, Martin, Motts, Schneiderman

NOES:

ABSTAIN:

ABSENT: Riley


Forrest Ebbs (Nov 17, 2022 10:14 PST)

FORREST EBBS
Secretary to the Planning Commission

**EXHIBIT A
DRAFT CANNABIS ORDINANCE AMENDMENTS
(SEPARATE PAGE)**

EXHIBIT A

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING CHAPTER 5 OF TITLE 9, SECTION 3801 “SUMMARY OF ZONING
DISTRICTS” AND SECTION 3845 “CANNABIS BUSINESSES” OF THE ANTIOCH
MUNICIPAL CODE ALLOWING CANNABIS BUSINESSES IN THREE NEW
CANNABIS OVERLAY DISTRICTS, SPECIFYING CANNABIS BUSINESS TYPE,
AND ESTABLISHING BUFFERS IN EACH OVERLAY DISTRICT**

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

SECTION 1:

In 2018, the City Council adopted four (4) ordinances regulating cannabis business operations within the City. One or more of these ordinances established a Cannabis Business (CB) district and imposed locational restrictions on cannabis businesses within the City.

SECTION 2:

Article 28 “Amendments” and AMC Section 9-5.2802 “Required Findings” of the Antioch Municipal Code require the City to make findings to amend the Zoning Code.

§ 9-5.2802 FINDINGS REQUIRED.

(A) Before changes in the zoning districts boundaries are made, it shall be shown and the Commission and City Council shall find and determine the following:

1. That the proposed zone reclassification will allow uses more suitable for the area than the present classification.

Finding: The proposed CB 4, 5, and 6 Overlay Districts creates an opportunity for cannabis businesses and cannabis retail. This creates an opportunity for economic development and opportunity.

2. That uses permitted by the proposed zone will not be detrimental to adjacent or surrounding property.

Finding: The proposed CB 4, 5, and 6 Overlay Districts are surrounded by compatible land uses including retail and industrial uses. The expanded districts are not expected to create adverse impacts.

3. That evidence has been presented documenting land use changes in the area to warrant a change of zone.

Finding: The proposed ordinance amendments further refine and enhance potential locations for cannabis businesses meeting the interests of City residents and existing businesses.

4. That the requested zone change is in conformance with the General Plan.

Finding: The proposed zoning text amendments are compliant with the General Plan.

SECTION 3:

Section 9-5.3801 is hereby amended as follows as follows:

§ 9-5.3801 SUMMARY OF ZONING DISTRICTS

CB Cannabis Business Overlay District

CB 1 The area designated as the Cannabis Business Overlay District prior to June 1, 2021, which consists of two areas: (1) the area bordered by West 10th Street, the Auto Center, the Union Pacific railroad tracks, and the western Antioch city limits and (2) the area bordered by the San Joaquin River, Highway 160, East 18th Street, and the Fulton Road boat launch ramp. (Note: The southern border of the sconed area is not a straight line.)

CB 1 allows the broadest range of cannabis businesses.

CB 2 Downtown Antioch--the area designated as Mixed Use within the Downtown Specific Plan

CB 2 allows storefront retail only.

CB 3 Somersville District—the area bounded by Buchanan Road, Delta Fair Boulevard, and Fairview Drive

CB 3 allows storefront retail only.

CB 4 Northwest Downtown/Marina- the area bounded by 4th St., BNSF rail line, L St. , and excludes PB-Public Buildings designated parcels.

CB 4 allows most types of cannabis businesses, excluding retail.

CB 5 Slatten Ranch Business Park —the area bounded by Wicklow Way to the south, Laurel Road, Empire Ave., and Highway 4

CB 5 allows most types of cannabis businesses, excluding retail.

CB 6 Slatten Ranch/Empire Center -- the area bounded by Lone Tree Way, Wicklow Way to the north, Empire Ave., and Highway 4

CB 6 allows storefront retail only.

SECTION 4:

Section 9-5.3845 is hereby repealed and replaced as follows:

§ 9-5.3845 CANNABIS BUSINESSES.

A cannabis business may be established within the Cannabis Business (CB) Zoning Overlay District only under the following conditions:

(A) **Cannabis Uses Established.** A cannabis business may be established only under the conditions set forth herein. No other cannabis business or commercial cannabis use shall be allowed within the city except as authorized by this article.

(B) **Use Permit Required.** A use permit from the City Council is required for all cannabis businesses. The application for the use permit shall be considered by the Planning Commission which shall make a recommendation to the City Council.

(C) **Operating Agreement.** Prior to operating in the city and as a condition of issuance of a use permit, the operator of each cannabis business shall enter into and maintain compliance with an operating agreement, setting forth the terms and conditions under which the cannabis business will operate. Such requirements for the cannabis business operator shall include, but are not limited to, the following:

1. Providing a public outreach and education program;
2. Implementing and maintaining a social equity program;
3. Payment and reporting of fees and other charges, which may be imposed on gross receipts and/or square footage of cultivation, or such other methodology as determined by the City Council;
4. Implementing and maintaining a security plan to be approved by the Chief of Police;
5. Implementing and maintaining an odor control and mitigation plan;
6. Payment of fees and charges including, but not limited to administrative and penalty fees;
7. Record keeping;
8. Compliance with city's requirements for periodic review and audit of the cannabis business's operations and related matters;
9. Insurance coverage as required by the city;
10. Indemnification of the city, its officers, officials, employees, agents and consultants;
11. Assignability;
12. Procedures for amendment of the operating agreement;

13. Hours of operation;
14. Signage;
15. External lighting; and
16. Such other terms and conditions that will protect and promote the public health, safety, and welfare.

(D) **Use Permit Finding.** In addition to the standard findings for approval of a use permit, the City Council shall make the following additional finding in support of approval of a use permit for a cannabis business.

- (1) That the location and site characteristics of the proposed cannabis business are consistent with all applicable state laws and city standards or guidelines, that all provisions have been made to ensure that the operation of the cannabis business will not create excessive demands for police service or other public services, and that the cannabis business will benefit the city.

(E) **License Type & Permit Requirement.** Cannabis businesses may be established as described in Table A.

9-5.3845 TABLE A: License Type California Department of Cannabis Control & City Permit Required		
Overlay District	License Types Permitted	Permit Requirement
CB 1 ¹	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 6, 7, 8, 10, 11,12	City Council Use Permit
CB 2	10	City Council Use Permit
CB 3	10	City Council Use Permit
CB 4 ¹	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 6, 7, 8, 11, 12	City Council Use Permit
CB 5 ¹	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 6, 7, 8, 11, 12	City Council Use Permit
CB 6	10	City Council Use Permit

(1) License Type 7 “Volatile Solvent Manufacturing” is prohibited in multi-tenant buildings the CB 1, CB 4 and CB 5 Overlay Districts.

(F) **Separation Requirements.** The separation requirements for the Cannabis Business Overlay Zoning Districts shall be as described in Table B:

9-5.3845 TABLE B: Cannabis Separation Requirements		
Overlay District	Between Retail Uses	From Sensitive Use
CB 1	600' ¹	600' ¹
CB 2 ²	200'	200'
CB 3	600' ¹	600' ¹
CB 4	600' ¹	200'
CB 5	600' ¹	200'
CB 6	200'	200'

- (1) **Decrease 600' Requirement.** Notwithstanding Section 9-5.3945 (F), the City Council shall have the discretion to decrease the 600-foot restriction without requiring a variance when significant barriers (such as large roadways, railroad tracks, or similar buffers) exist between the proposed cannabis business and the existing use identified in Section 9-5.3845 (E).
 - (2) **CB 2 “Sensitive Use.”** Solely as to CB 2 Overlay District, the term “sensitive use” shall not include any property located within the City’s boundaries and occupied by a City residential land use or designated by the City as residential in the City’s general plan or zoning ordinance.
 - (3) **Measuring Sensitive Uses.** The separation requirements referenced in Section 9-5.3845 (F) for sensitive uses shall be measured property line to property line. The separation requirements referenced in Section 9-5.3845 (F) for retail businesses shall be measured between the primary entrance/exit for the business’ customers for each retail business.
- (G) **Fees.** Applicants seeking to operate cannabis businesses as well as cannabis businesses currently operating in the City shall pay their share of City fees, charges, and other costs of City staff and consultants (including outside legal counsel) for matters relating to their application and business (e.g., conditional use permit, operating agreement, and any modification or implementation thereof). The applicant shall make a cash deposit with the City in an amount to be determined by the City Attorney. The City shall return any unused deposit; the business applicant/operator shall pay any amount greater than the original deposit. The applicant/operator may have to make more than one deposit.

SECTION 5: Severability.

If any section, subsection, provision or part of this ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 6. CEQA.

The above amendments to the City’s Municipal Code are not considered a project under the California Environmental Quality Act under the “Common Sense” exemption (CEQA Guidelines §15061(b)(3) because the proposed amendments will not have a direct or reasonably foreseeable indirect physical change or effect on the environment. The proposed ordinance does not change the existing zoning in the affected areas; rather, the proposed ordinance is an overlay on the existing zoning, already approved and adopted by the City.

SECTION 7:

This ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption and shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch.

* * * * *

I HEREBY CERTIFY that the forgoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Antioch, held on the ____ of ____ 2022, and passed and adopted at a regular meeting thereof, held on the ____ day of ____ 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lamar Thorpe, Mayor of the City of Antioch

ATTEST:

**Elizabeth Householder
City Clerk of the City of Antioch**






Resolution 2022-32 Cannabis Zoning Text Amendments

Final Audit Report

2022-11-17

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