

**STAFF REPORT TO THE PLANNING COMMISSION**

**DATE:** Regular Meeting of September 15, 2021

**TO:** Planning Commission

**SUBMITTED BY:** Ruthann G. Ziegler, Special Counsel  
Kwame Reed, Economic Development Director

**APPROVED BY:** Thomas Lloyd Smith, City Attorney

**SUBJECT:** Ordinance Amending the Antioch Municipal Code Sections 9-5.203, 9-5.3801, 9-5.3845, and the Downtown Specific Plan, relating to Cannabis Businesses

---

**RECOMMENDED ACTION**

It is recommended that the Planning Commission adopt the resolution recommending the City Council adopt the proposed ordinance (Exhibit 1 to Attachment A) amending the Antioch Municipal Code §§9-5.203, 9-5.3801, 9-5.3845 and the Downtown Specific Plan relating to cannabis businesses.

The revised ordinance and this staff report reflect direction given by the Planning Commission at its August 4, 2021 meeting.

**FISCAL IMPACT**

The proposed action will not have a negative effect on the City budget and may generate increased revenue by providing more options for cannabis businesses in additional locations where commercial or similar businesses are already allowed by the City.

**DISCUSSION**

The proposed amendment to Antioch Municipal Code would result in the following:

- AMC §9-5.203: The ordinance narrows the existing definition of “cannabis retail” to apply to retail operations only. The ordinance includes the definition of “sensitive use” both to reflect the existing ordinance and state law.
- AMC §9-5.3801: The ordinance renames the existing Cannabis Business (CB) district and adds two additional areas within the City where a Cannabis Business may be located.
- AMC §9-5.3845: The ordinance specifies which types of cannabis businesses would be allowed in each separate Cannabis Business district, and the related

amendment of the Downtown Specific Plan to include “cannabis retail” as an allowed use.

- AMC §9-5.3845: The ordinance reflects existing City policy that an applicant for a cannabis business reimburse the City for processing fees and costs.

## **RESPONSE TO AUGUST 4 PLANNING COMMISSION DIRECTION**

This staff report and the attached proposed ordinance reflect the August 4 Planning Commission meeting and related direction to staff.

### **A. Fewer New Areas for Cannabis Businesses**

The Planning Commission requested that fewer areas for new cannabis business be considered at any given time. Therefore, staff has included only two new areas (CB2-Downtown and CB4-Somersville) for consideration. CB 1, also included, merely reflects the existing City ordinance and does not include any changes.

### **B. Security**

The Planning Commission raised concerns about adequate security at new cannabis businesses. There are no changes proposed for the existing security requirements in the Antioch Municipal Code<sup>1</sup> or the operating agreement, which requires Council approval. A copy of the ordinance setting forth the conditions required for the operating agreement is attached hereto as Attachment B.

Antioch Municipal Code §9-5.3845(B)(4) requires the operating agreement to include provisions for “Implementing and maintaining a security plan to be approved by the Chief of Police....” The standard operating agreement also allows the Police Department to conduct an annual audit of the cannabis business and gives the Police Chief “the discretion to require additional security measures or modify existing security measures at the Operator’s expense, as may be required by law or reasonable for public safety. At Operator’s expense, the Police Chief may also determine to require additional security measures at any time upon the Department’s finding that existing security measures are insufficient for the Business Operations to comply with the terms of the CBUP or to adequately protect public health and safety.”

The City Council has included this language in all operating agreements it has approved.

### **C. Odor Control**

The Planning Commission raised concerns about adequate odor control at new cannabis businesses. There are no changes proposed for the existing odor control requirements, as set forth in the Antioch Municipal Code or the operating agreement, which requires Council approval.

Antioch Municipal Code §9-5.3845(B)(4) requires the operating agreement to include an odor control and mitigation plan. The standard operating agreement also allows the City

---

<sup>1</sup> Antioch Municipal Code §9-5.3845 requires that, to approve a conditional use permit for a cannabis business, the City Council find “the cannabis business will not create excessive demand for police service....”

Manager to impose additional mitigation measures, whether relating to odor or other factors affecting public health and safety, on the cannabis business at the business operator's expense, as may be required by law or reasonable to maintain public health and safety.

The City Council has included this language in all operating agreements it has approved.

#### D. Sensitive Uses

The Planning Commission discussed the amount of buffer between cannabis businesses and certain types of uses, often referred to as "sensitive uses." State law defines sensitive uses as:

- A school providing instruction in kindergarten or any grades 1 through 12
- A day care center, defined as a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers, and includes child care centers licensed pursuant to Health & Safety Code §1596.951.
- A youth center, defined as any 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 law establishes a 600 foot buffer between these uses and a cannabis business, measured property line to property line. However, state law authorizes cities and counties to reduce the buffer. State law does not recognize residential property as a sensitive use and therefore does not require any buffer from residential uses. State law also does not require a buffer between cannabis businesses.

#### E. Cannabis Ordinances of Neighboring Jurisdictions

The Planning Commission expressed interest in neighboring jurisdictions' cannabis regulations. Below is a brief overview.

##### Contra Costa County (applies to the unincorporated area)

The County allows up to two manufacturing permits (if not connected with cultivation), four storefront retail permits, and ten cultivation permits (which may include manufacturing). There are no limits on non-storefront retail (i.e., delivery only), testing, and distribution.

The County requires a 1000 foot buffer between a cannabis business and the three statutory sensitive uses, plus any drug treatment center. The County also requires a 500 foot buffer between storefront retail cannabis businesses. The County does not require any buffer from residential uses.

##### Brentwood

Brentwood does not allow commercial cannabis.

### Concord

Concord limits the number and type of cannabis businesses. Concord allows three storefront retail, three non-storefront retail, two microbusinesses with storefront retail, one microbusiness without storefront retail, three manufacturing, and an unlimited number of testing labs. Concord allows cultivation only as part of a microbusiness.

Concord requires a 250 foot buffer between a cannabis business and the three statutory sensitive uses. It does not require any buffer from residential uses or between cannabis businesses.

Concord also prohibits any new sensitive uses within 600 feet of its commercial cannabis overlay districts.

### Oakley

Oakley does not allow commercial cannabis.

### Pittsburg

Pittsburg allows up to two cannabis businesses of any type in four designated areas, for a total of eight cannabis businesses. This limit does not apply to cannabis businesses previously established in Pittsburg, which include at least one testing lab and at least one manufacturing business. The eight new businesses may have multiple cannabis licenses; however, Pittsburg limits the number of cannabis retail licenses to one per population of 25,000.

Pittsburg uses a 600 foot buffer between cannabis businesses and the three statutory sensitive uses plus religious institutions and libraries. Pittsburg also requires a 1000 foot buffer between retail cannabis businesses and schools. Pittsburg does not require any buffer from residential uses or between cannabis businesses.

## **DISCUSSION**

The proposed ordinance has three key parts: (1) modifying the existing Cannabis Business district to add new areas for cannabis businesses, (2) specifying which types of cannabis businesses would be allowed in each area, and (3) adding a definition of “sensitive use” consistent with the language in the existing ordinance and state law, as well as clarifying the definition of “retail cannabis” so it applies strictly to retail uses. Each is discussed below.

### **1. Cannabis Business (CB) district**

Existing §9.5-3801 designates a single type of cannabis business district, identified as CB. This has sometimes been referred to as the “green zone.” The City’s existing ordinance allows all types of cannabis businesses to be located within the CB district.

The proposed ordinance identifies six categories of CB districts, each covering a different geographical area within the City. Each of these areas already allows commercial or similar uses. The areas are:

**CB 1** The area designated as the Cannabis Business Overlay District prior to June 1, 2021.

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.<sup>2</sup>

**CB 3** Somersville District: The area bounded by Buchanan Rd., Delta Fair Blvd., and Fairview Drive.

CB 3 allows storefront retail only.

It is important to note that the proposed changes are overlay districts, not changes to the underlying zoning in any of the affected areas. The proposed ordinance merely allows additional types of retail in areas already zoned for retail. No changes in traffic patterns, whether from customers, employees, or suppliers, are anticipated.

## **2. Determining the separation requirement or buffer for different types of cannabis businesses and uses**

Existing §9-5.3845 establishes a 600-foot buffer or separation requirement for four categories of uses:

- (1) Any private or public school serving students grade kindergarten through high school;
- (2) Any public park owned or operated by the City;
- (3) Any property occupied by a residential land use or with a residential or general plan land use designation or zoning designation; and
- (4) A childcare center, as defined by this municipal code.

A change to §9-5.203 would add the definition of “sensitive use” to reflect state statute and to include both any public park owned or operated by the City and residential uses, consistent with the current ordinance. The proposed definition also clarifies that the reference to residential uses only applies within the City of Antioch.

State law does not require any buffer as to residential uses. Since the proposed ordinance includes this use in the same category as the three uses recognized by state law, the proposed ordinance uses the same amount of buffer and method of measurement for all these uses.

State law does not require any buffer between retail uses. The City’s existing regulations include a 600-foot buffer between retail uses. Because retail businesses may be located on large land parcels, the proposed ordinance measures this buffer as between primary customer entrance/exit for each business. Another change to §9-5.203 narrows the definition of “cannabis retail” to include strictly retail businesses only. The current definition is overly broad and could be construed to include not only retail but also distribution and manufacturing cannabis businesses.

---

<sup>2</sup> “Storefront retail” is a Type 10 license and allows the storefront to deliver cannabis to individual customers.

The proposed ordinance finetunes the amount of buffer in different areas, both between retail cannabis businesses and between any cannabis business and a sensitive use.

The proposed ordinance recognizes that certain natural buffers (such as large roadways and railroad tracks) may exist. The proposed ordinance allows the City to reduce the specified separation requirement where these natural buffers exist.

### **3. Designating different types of cannabis business and buffers for different CB districts**

Existing §9-5.3845 does not limit which types of cannabis businesses can be in which location. City staff has evaluated the various areas and developed the following recommendations for the types of cannabis businesses and buffers in the specified areas.

**CB 1** The area designated as the Cannabis Business Overlay District prior to June 1, 2021.

There is not change recommended for this area, other than renaming it CB 1.

This area is the current “green zone.” It would retain the existing 600-foot buffer both between retail cannabis businesses and between a cannabis business and any sensitive use.

Permitted cannabis businesses within CB 1 are any type of existing cannabis license.

### **CB 2 Downtown Antioch**

This area is designated as Mixed Use within the Downtown Specific Plan. To encourage retail development and maintain consistency with the Downtown Specific Plan, this area would allow only retail storefront cannabis businesses (Type 10) and would require only a 200-foot butter between retail cannabis businesses and between a cannabis business and a sensitive use. In addition, due to the Mixed Use designation, the term “sensitive use” will not include residential uses for CB 2 only.

The existing Downtown Specific Plan allows “general retail.” To clarify that this use also includes cannabis retail, Table 2.1 of the Downtown Specific Plan would be modified to include cannabis retail under the category of “Retail Trade”, subject to the approval processes required of cannabis businesses as set forth in the Municipal Code.

### **CB 3 Somersville District**

This area would be restricted to storefront retail (Type 10) only.

Below are charts, included in the proposed ordinance, which show the types of uses and buffers recommended for each of the three CB districts.

Please note there is not change as to CB 1; it is merely renamed.

TABLE A		
Overlay District	License Types Permitted	Permit Requirement
CB 1	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 6, 7, 8, 9, 10, 11,12, 13	City Council Use Permit
CB 2	10	City Council Use Permit
CB 3	10	City Council Use Permit

TABLE B		
Overlay District	Between Retail Uses	From Existing Sensitive Use
CB 1	600'	600'
CB 2	200'	200' <sup>3</sup>
CB 3	600'	600'

**4. Reimbursement of City fees, charges, and costs**

The ordinance codifies the City’s existing practice of having applicants to operate cannabis businesses, as well as current cannabis businesses, 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 will 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.

**ATTACHMENTS**

- A. Resolution  
Exhibit 1: Proposed ordinance
- B. Ordinance No. 2191-C-S
- C. Chart of types of cannabis licenses

---

<sup>3</sup> To encourage retail development in CB 2, the definition of “sensitive use” only for CB 2 does not include residential uses.

# **ATTACHMENT A**

## **Resolution**



**PLANNING COMMISSION  
RESOLUTION NO. 2021-\*\***

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ANTIOCH  
RECOMMENDING THAT THE CITY COUNCIL ADOPT THE ORDINANCE  
AMENDING SECTIONS 9-5.203, 9-5.3801, AND 9-5.3845 OF THE ANTIOCH  
MUNICIPAL CODE REGARDING CANNABIS BUSINESSES, AND TABLE 2.1 OF  
THE DOWNTOWN SPECIFIC PLAN**

**WHEREAS**, sections 9-5.203, 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, they 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 narrows the existing definition of “cannabis retail” to apply to retail operations only and add the definition of “sensitive use”, both of which are the bases for the locational restrictions included in AMC §9-5.3845 the ordinance (AMC §9-5.203);

**WHEREAS**, the ordinance identifies the existing Cannabis Business (“CB”) district and adds two more distinct geographical areas within the City (AMC §9-5.3801) where limited types of cannabis businesses may be allowed, 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 separate Cannabis Business district (AMC §9-5.3845), enabling a more suitable match between the location and the type of cannabis business;

**WHEREAS**, the ordinance clarifies the Downtown Specific Plan, which currently allows “general retail” to also allow “cannabis retail”;

**WHEREAS**, the ordinance codifies the City’s existing practice of having applicants to operate cannabis businesses, as well as current cannabis businesses, 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);

**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**, the Planning Commission duly gave notice of a public hearing as required by law; and

**WHEREAS**, the Planning Commission on September 15, 2021, duly held a public hearing, received and considered evidence, both oral and documentary.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission does hereby find that the public convenience and general welfare require such changes.

**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 sections 9-5.203, 9-5.3801, and 9-5.3845 as proposed in the draft ordinance attached hereto as Exhibit 1.

\* \* \* \* \*

**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 15<sup>th</sup> day of September 2021.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

---

**Forrest Ebbs**  
**Secretary to the Planning Commission**

# **ATTACHMENT A**

## **Exhibit 1:**

### **Proposed Ordinance**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH  
AMENDING SECTIONS 203, 3801, AND 3845 OF CHAPTER 5 OF TITLE 9 OF THE  
ANTIOCH MUNICIPAL CODE  
ADDING THE DEFINITION OF SENSITIVE USE, MODIFYING THE DEFINITION OF  
“CANNABIS RETAIL”, MODIFYING THE CANNABIS BUSINESS OVERLAY  
DISTRICT BY  
SPECIFYING THE LOCATION OF DIFFERENT TYPES OF CANNABIS  
BUSINESSES, AND CLARIFYING THE DOWNTOWN SPECIFIC PLAN REGARDING  
CANNABIS RETAIL**

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

**SECTION 1:**

Beginning in 2018, the City Council has adopted several ordinances relating to cannabis businesses 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:**

The City has further evaluated both existing and potential sites for different types of cannabis businesses within the City. The City is adopting this ordinance to further refine and enhance potential locations for cannabis businesses while meeting the interests of City residents and existing businesses.

**SECTION 3:**

Section 9-5.203 is modified to add the following definition:

**SENSITIVE USE:** (a) Any school providing instruction in kindergarten or any grades 1 through 12, (b) a day care center which is a child day care facility other than family day care home and includes infant centers, preschools, extended day care facilities, school age child care centers and child care centers licensed pursuant to Health & Safety Code §1596.951, (c), youth center which is any 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, (d) any public park owned or operated by the City; or (e) 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.

#### **SECTION 4:**

Section 9-5.203 is modified to change the following definition of “cannabis retail” as follows:

**CANNABIS RETAIL.** A cannabis business that ~~distributes, dispenses, stores, exchanges, packages, re-packages, labels, sells or, makes available, transmits, or gives away cannabis~~ delivers cannabis or cannabis products for either medical or recreational use and is operated in accordance with state and local laws and regulations. Cannabis retail includes, but is not limited to, selling cannabis or cannabis products, pursuant to a Type 9 or 10 cannabis license (but not a Type 12 microbusiness), or a cannabis license subsequently established for a similar or related purpose.

#### **SECTION 5:**

Section 9-5.3801 is modified as follows:

**§ 9-5.3801 SUMMARY OF ZONING DISTRICTS.** [no change except as indicated below]

##### **CB Cannabis Business Overlay District**

**CB 1** The area designated as the Cannabis Business Overlay District prior to August 1, 2021.

**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 Rd., Delta Fair Blvd., and Fairview Dr.

**CB 3** allows storefront retail only.

#### **SECTION 6:**

Section 9-5.3845 is modified as follows:

##### **§ 9-5.3845 CANNABIS BUSINESS.**

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

(A) [no change]

(B) (no change)

~~(C)~~ 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.

(D) Cannabis businesses may be established as described in Table A.

<b>TABLE A</b>		
<u>Overlay District</u>	<u>License Types Permitted</u>	<u>Permit Requirement</u>
<u>CB 1</u>	<u>1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 5, 5A, 5B, 6, 7, 8, 10, 11,12</u>	<u>City Council Use Permit</u>
<u>CB 2</u>	<u>10</u>	<u>City Council Use Permit</u>
<u>CB 3</u>	<u>10</u>	<u>City Council Use Permit</u>

- (1) License type 7 is not allowed in multi-tenant buildings in CB 1.

(E) The separation requirements for the Cannabis Business Overlay Zoning Districts shall be as described in Table B:

<b>TABLE B</b>		
<u>Overlay District</u>	<u>Between Retail Uses</u>	<u>From Sensitive Use</u>
<u>CB 1</u>	<u>600'</u>	<u>600'</u>
<u>CB 2</u>	<u>200'</u>	<u>200'</u>
<u>CB 3</u>	<u>600'</u>	<u>600'</u>

- (1) Notwithstanding Section 9-5.3945(E), the City 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 retail cannabis business and the existing use identified in Section 9-5.3845(D)(4).

- (2) Solely as to CB 2, 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.

- (1)(3) The separation requirements referenced in Section 9-5.3845(E) for sensitive uses shall be measured property line to property line. The separation requirements referenced in Section 9-5.3845(E) for retail businesses shall be measured between the primary entrance/exit for the business’ customers for each retail business.

(F) Applicants to operate cannabis businesses, as well as current cannabis businesses, 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 7. Downtown Specific Plan**

The Downtown Specific Plan is hereby amended to include “cannabis retail” as a use in Table 2.1, under “Retail Trade”, with a use permit required and subject to the approval processes required of cannabis businesses as set forth in the Municipal Code.

**SECTION 8: 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 9. 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 10:**

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 \_\_\_\_ 2021, and passed and adopted at a regular meeting thereof, held on the \_\_\_\_ day of \_\_\_\_ 2021, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Lamar Thorpe, Mayor of the City of Antioch**

**ATTEST:**

---

**Ellie Householder  
City Clerk of the City of Antioch**



# **ATTACHMENT B**

**Ordinance No. 2191-C-S**

**ORDINANCE NO. 2191-C-S**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH  
AMENDING ARTICLE 3845 OF CHAPTER 5 OF TITLE 9 OF THE ANTIOCH  
MUNICIPAL CODE ADDING DEFINITION OF COMMERCIAL CANNABIS USE,  
REPLACING DEVELOPMENT AGREEMENT WITH OPERATING AGREEMENT AND  
SPECIFYING MINIMUM CONDITIONS OF AN OPERATING AGREEMENT**

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

**SECTION 1.**

The City Council enacted Ordinance No. 2143-C-S on June 26, 2018 and Ordinance No. 2165-C-S on April 23, 2019 regarding Cannabis Businesses.

**SECTION 2.**

On September 10, 2019, the City Council adopted Resolution No. 2019/143, which specified that, for cannabis businesses ("CBUP") whose applications were deemed complete prior to the enactment of Ordinance No. 2165-C-S on April 23, 2019, the City would use an operating agreement, rather than a development agreement, for the business. This ordinance makes the requirement of an operating agreement, rather than a development agreement, applicable to all unapproved cannabis businesses in the City.

**SECTION 3.** Add the following definitions to Section 9-5.203 DEFINITIONS

*COMMERCIAL CANNABIS USE.* Any commercial cannabis activity which is or may be licensed pursuant to state law including, but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale, or manufacture of cannabis or cannabis products. "Commercial cannabis use" shall not include legal cannabis activities carried out exclusively for one's personal use that do not involve commercial activity or sales and that do not require a state license or permit.

**SECTION 4.** Modify the following Section to Chapter 5 of Title 9 of the Antioch Municipal Code:

**Section 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) 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) 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.
- 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
- (C) A cannabis business shall be located no closer than 600 feet from the following:
- (1) Any private or public school serving students grade kindergarten through high school;
  - (2) Any public park owned or operated by the City;
  - (3) Any property occupied by a residential land use or with a residential or general plan land use designation or zoning designation; and
  - (4) A child care center, as defined by this municipal code.
- (D) 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.

**SECTION 5. Severability.**

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**SECTION 6. CEQA.**

The above amendments to the City's Municipal Code are exempt from environmental review per CEQA Guidelines under the General Rule, 14 California Code of Regulations, section 15061(b)(3).

**SECTION 7. Publication; Effective Date.**

This Ordinance shall take effect and be enforced thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

\* \* \* \* \*

I **HEREBY CERTIFY** that the forgoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 13<sup>th</sup> of October 2020, and passed and adopted at a regular meeting thereof, held on the 27<sup>th</sup> of October 2020 by the following vote:

**AYES:** Council Members Wilson, Motts, Thorpe, Ogorchock and Mayor Wright


**NOES:** None

**ABSTAIN:** None

**ABSENT:** None

  
\_\_\_\_\_  
**Sean Wright, Mayor of the City of Antioch**

**ATTEST:**

  
\_\_\_\_\_  
**Arne Simonson, MMC**  
**City Clerk of the City of Antioch**

# **ATTACHMENT C**

## **Chart of Types of Cannabis Licenses**

**Attachment C**  
**Types of Cannabis Business Licenses**

<b>License type</b>	<b>Use</b>
1	cultivation, specialty outdoor, small
1A	cultivation, specialty indoor, small
1B	cultivation, specialty mixed light, small
1C	cultivation, specialty cottage, small
2	cultivation, outdoor, small
2A	cultivation, indoor, small
2B	cultivation, mixed-light, small
3	cultivation, outdoor, medium
3A	cultivation, indoor, medium
3B	cultivation, mixed-light, medium
4	cultivation, nursery
5	cultivation, outdoor, large
5A	cultivation, indoor, large
5B	cultivation, mixed-light, large
6	manufacturer 1 (non-volatile solvents only)
7	manufacturer 2 (volatile solvents allowed)
8	testing laboratory
9	retail-no storefront, delivery only
10	retail with storefront, can include delivery
11	distribution
12 <sup>1</sup>	microbusiness
13	distribution-transport only
14	cannabis event organizer
N	manufacturer using methods other than extracts, such as infusion
P	manufacturer that packages or labels cannabis products
S	manufacturer using shared facilities

---

<sup>1</sup> A microbusiness includes at least three of the following four uses: retail, cultivation under 10,000 square feet, distribution, and Type 6 manufacturing.