

AGENDA

SPECIAL MEETING

**ANTIOCH CITY COUNCIL: CANNABIS STANDING COMMITTEE
MAYOR PRO TEM WILSON AND COUNCIL MEMBER TORRES-WALKER
WEDNESDAY, MAY 19, 2021
3:00 P.M.**

**PURSUANT TO GOVERNOR GAVIN NEWSOM'S EXECUTIVE ORDER N-29-20,
THIS MEETING WILL BE HELD AS A TELECONFERENCE/VIRTUAL MEETING.
OBSERVERS MAY VIEW THE MEETING LIVESTREAMED VIA THE
CANNABIS STANDING COMMITTEES' WEBSITE AT:
<https://www.antiochca.gov/csc/meeting/>**

NOTICE OF OPPORTUNITY TO ADDRESS THE COMMITTEE

Members of the public wishing to provide public comment may do so in the following way:

- 1) Prior to 1:00 P.M. the day of the meeting: Written comments may be submitted electronically to the following email address: cityattorney@ci.antioch.ca.us. All comments received before 1:00 pm the day of the meeting will be provided to the Cannabis Committee at the meeting. Please indicate the agenda item and title in your email subject line.
- 2) After 1:00 P.M. the day of the meeting and during the meeting: Comments can be submitted to the Cannabis Committee verbally through the Zoom webinar. Please use the link to register and attend the webinar.
https://zoom.us/webinar/register/WN_a2fVElqcS26PeaAm7SZZ1w

After hearing from the public, the agenda item will be closed. Deliberations will then be limited to members of the Committee.

The City cannot guarantee that its network and/or the site will be uninterrupted. To ensure the Cannabis Standing Committee receives your comments, you are strongly encouraged to submit your comments in writing in advance of the meeting.

NOTICE OF AVAILABILITY OF REPORTS

This agenda is a summary of the discussion items/actions proposed to be taken by the Committee. The Agendas, including Staff Reports will be posted onto our City's Website 24 hours before each Committee Meeting. To view the agenda information, click on the following link: <https://www.antiochca.gov/government/agendas-and-minutes/csc/>

- 1. ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. INTRODUCTIONS**
- 4. PUBLIC COMMENT ON UNAGENDIZED ITEMS**
- 5. APPROVAL OF CANNABIS STANDING COMMITTEE SPECIAL MEETING MINUTES FOR JANUARY 15, 2021**
 - A. Recommended Action: Motion To Approve The Minutes
- 6. APPROVAL OF CANNABIS STANDING COMMITTEE SPECIAL MEETING MINUTES FOR APRIL 22, 2021**
 - A. Recommended Action: Motion To Approve The Minutes
- 7. PROPOSED CHANGES TO CANNABIS BUSINESS ORDINANCE RELATING TO LOCATION AND TYPES OF CANNABIS BUSINESSES (ANTIOCH MUNICIPAL CODE SECTIONS 9-5.203, 9-5.3801, AND 9-5.3845)**
 - A. Public Comment
 - B. Discussion and Direction to Staff
- 8. ADJOURNMENT:** *Committee Member will make a motion to adjourn the meeting. A second of the motion is required, and then a majority vote is required to adjourn the meeting.*

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND CALIFORNIA LAW, it is the policy of the City of Antioch to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation, please contact the ADA Coordinator at the number or email address below at least 72 hours prior to the meeting or when you desire to receive services. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility. The City's ADA Coordinator can be reached @ Phone: (925) 779-6950, and e-mail: publicworks@ci.antioch.ca.us.

**AGENDA SPECIAL MEETING ANTIOCH CITY COUNCIL
CANNABIS STANDING COMMITTEE
COUNCIL MEMBERS WILSON AND TORRES-WALKER
FRIDAY, JANUARY 15, 2021
12:00 P.M.**

Special Meeting
12:00 P.M.

January 15, 2021
Meeting Conducted Remotely

The City of Antioch, in response to the Executive Order of the Governor and the Order of the Health Officer of Contra Costa County concerning the Novel Coronavirus Disease (COVID-19), held the Cannabis Standing Committee meeting live stream (at www.antiochca.gov/csc/meeting/). The Cannabis Standing Committee meeting was conducted utilizing Zoom Audio/Video Technology.

1. ROLL CALL

Council/Committee Chair Wilson called the meeting to order at 12:11 A.M. City Attorney Smith called the roll.

Present: Council/Committee Member Torres-Walker and Council/Committee Chair Wilson

Staff: City Attorney, Thomas Lloyd Smith
Outside Legal Counsel, Ruthann Ziegler
Youth Services Network Manager, Tasha Johnson
Director of Economic Development, Kwame Reed
Director of Community Development, Forrest Ebbs
Planning Manager, Alexis Morris
Minutes Clerk, Kitty Eiden

2. INTRODUCTIONS

City Attorney Smith gave introductory comments and discussed parliamentary procedures.

PLEDGE OF ALLEGEANCE

3. PUBLIC COMMENT ON UNAGENDIZED ITEMS – None

4. APPROVAL OF CANNABIS STANDING COMMITTEE SPECIAL MEETING MINUTES FOR NOVEMBER 25, 2020.

On motion by Council/Committee Chair Wilson, seconded by Council/Committee Member Torres-Walker the Cannabis Standing Committee unanimously approved the minutes for November 25, 2020.

5. TEMPORARY MORATORIUM ON CANNABIS DISPENSARIES

City Attorney Smith presented the Urgency Ordinance and noted the purpose was to provide time to prevent oversaturation in the cannabis green zone to ensure those business and their social equity programs remained viable.

A. Public Comment

None

B. Discussion and Direction to staff

Following discussion, Council/Committee Members Torres-Walker and Wilson recommended bringing a temporary moratorium on cannabis dispensaries to the City Council for consideration.

6. DELTA FAMILY PHARMS OPERATING AGREEMENT AND SOCIAL EQUITY PROGRAM

City Attorney Smith reported Delta Family Pharms' use permit had been approved, and they would proceed with negotiating an operating agreement with the City. He stated staff would assist them in finding a social equity program based on their goals and noted that Mr. Hoke's other cannabis business partnered with *Beat The Streets*. He stated that Youth Services Network Manager Johnson would be discussing options with Mr. Hoke.

Youth Services Network Manager Johnson added that she would be discussing social equity programs with Mr. Hoke next week. She stated that she would like to get input from Committee regarding viable social equity partners and wanted to discuss the potential for establishing process/criteria so non-profits could opt in themselves. She noted that she would defer to legal counsel regarding the language but suggested the following criteria be considered:

- Established 501c3 for a pre-determined amount of time
- Serving 90% of the community that was disproportionately impacted by the War on Drugs
- Serving youth 12-24 with a pre-determined percentage of Antioch residents
- Allows for organizations outside of Antioch provided they serve Antioch residents

Additionally, she stated that a process for announcing that the application process as well as determining who would make up the committee to review applications needed to be vetted.

A. Public Comment

None

B. Discussion and Direction to staff

Council/Committee Member Torres-Walker cautioned that with more rigorous requirements, they may lose small organizations that performed well but did not have capacity to go through

the process. She supported allowing for organizations that were not established 501c3 because she felt that there were sponsored organizations that did great work. She agreed that if they were serving a large percentage of Antioch residents they should not be required to be based in Antioch. She suggested the City consider if the process should include capacity building support for smaller organizations.

Council/Committee Chair Wilson agreed with Council/Committee Member Torres-Walker and noted that bringing Youth Services Network Manager Johnson into the process would streamline procedures. She discussed the importance of being equitable in the process and open to smaller organizations.

In response to Council/Committee Chair Wilson, City Attorney Smith stated if agreeable to cannabis businesses and staff, they could consider opening the process to smaller organizations working under an existing 501c3.

Council/Committee Chair Wilson commented that she was open to not requiring organizations to be based in Antioch if they were performing good work. She noted criteria should be equitable and not over cumbersome.

Council/Committee Member Torres-Walker explained that a larger organization could pass through a percentage of funding to a smaller organization and support them to build capacity to become a future applicant. She suggested organizations provide data regarding the percentage of population served who identified as black, African American etc.

City Attorney Smith responded that in the past organizations were able to identify who they served. He noted if the organization was not located in Antioch, they could require funding go strictly to providing services for Antioch residents. He stated he understood the pass-through concept of creating a relationship between organizations that would include a financial link and assisting in the expansion of the smaller organization.

In response to Youth Services Network Manager Johnson, Council/Committee Member Torres-Walker explained that a smaller fiscally sponsored organization could piggy-back off a larger 501c3 organization that would serve as the fiscal agent.

City Attorney Smith stated staff would follow up with Rick Hoke to determine his interests. He noted anyone with suggestions for potential organizations should send them to Youth Services Network Manager Johnson or himself. He further noted they would come back once they identified an organization to discuss the proposed plan.

7. EXPANSION OF CANNABIS BUSINESS OVERLAY DISTRICT

Director of Economic Development Reed gave an overview of the current cannabis business overlay areas. He reported cannabis operations were going well and the committee had previously discussed the possibility of expanding into other areas. He noted there had also been discussion regarding changing the buffer zones. He clarified that the state regulated that cannabis operations must be 600 feet from schools. He shared the map showing 100 ft., 200 ft.,

500 ft., and 600 ft. buffers around the parcels contained within the green zones as well as potential cannabis areas of Somersville and Slatten Ranch.

Outside Legal Counsel Ziegler explained that under state law the areas that triggered a 600 ft. buffer were K-12 schools, childcare centers, and youth centers. She noted that even though it was not required by state law, Antioch had applied the 600 ft buffer to residential areas. She further noted Council had the discretion to modify buffer requirements.

Director of Economic Development Reed stated most buffers seen on the map were from residential. He explained as the ordinance was currently written it would preclude the Kmart building from being eligible for cannabis uses because the existing buffer cuts into their parcel. He noted there were areas outside of the buffers in the Slatten Ranch area.

Director of Economic Development Reed stated that the undeveloped area past Slatten Ranch would be a prime example of where they could expand the green zone without having to change the ordinance.

Director of Community Development Ebbs stated it was a policy decision on whether the Committee/Council wanted to expand the green zone.

Outside Legal Counsel Ziegler stated to avoid challenges from Brentwood it would be good to be proactive and clean up the ordinance to clarify that it applied to residential property within Antioch.

Director of Economic Development Reed stated there were many facets of the cannabis industry that Antioch was prime for and expanding to the Slatten Ranch area which would provide them with the opportunity to do something on a much larger scale.

City Attorney Smith stated they could come back to Council with a discussion regarding what could be done within the existing ordinance and whether they want to modify the existing 600 ft requirement from residential and/or expand the green zone.

Outside Legal Counsel Ziegler added that the City could also differentiate which cannabis businesses the buffer would apply to.

Director of Community Development Ebbs added that at times the buffer did not serve its intended purpose and if the buffers were modified, guiding language regarding exception may be appropriate. He noted if the Committee was thinking about expanding cannabis businesses the Slatten Ranch area may be worth considering for commercial industrial uses because there would probably be some serious inquires in the next couple of years.

A. Public Comment

Manny Soliz, Antioch resident, thanked the subcommittee for hosting the meeting and allowing him with the opportunity to comment. He spoke in support of larger dispensaries and cultivation operations in Antioch. He spoke in support of reserving some parcels adjacent to major arteries for larger commercial operations. He stated he felt it was important to nurture relationships with the existing cannabis businesses so that they could continue to provide revenues and support social concerns in Antioch.

Hugh Henderson representing commercial property owners in Antioch, spoke on behalf of expanding the cannabis business overlay. He reported the owners he represented had property in the proposed Somersville corridor that was shovel ready for a cannabis business opportunity. He urged the committee to move forward with a recommendation to Council to expand the cannabis business overlay.

B. Discussion and Direction to staff

Director of Economic Development Reed stated that the property referenced by Mr. Henderson fit within the existing buffer.

City Attorney Smith commented when this item goes to Council, they could show that this option existed.

Director of Economic Development Reed added that there were also large industrial areas downtown for cannabis operations that were not retail.

City Attorney Smith suggested showing council the possibilities for cannabis businesses without changing the ordinance and then they could determine if they wanted to reduce the buffer.

Director of Community Development Ebbs added that if the ordinance was amended it may be important to stipulate that the buffer applied to residential units that were entitled or constructed as of January 1, 2021.

Planning Manager Morris reported that staff had talked to potential cannabis businesses regarding the locations being discussed this afternoon; however, they did not move forward due to zoning designations.

Council/Committee Member Torres-Walker thanked everyone for presentation. She stated that if it was the desire of the community, it made sense to clean up the ordinance language especially concerning the Slatten Ranch area, given Brentwood's position on cannabis. Additionally, she stated that it may be feasible to reduce the buffer to 200 ft. She stated that they needed to be strategic and thoughtful about how to invite new industry while continuing to foster strong relationships with the existing cannabis businesses.

Council/Committee Chair Wilson spoke in support of cleaning up the ordinance with regards to the Brentwood area.

In response to Council/Committee Chair Wilson, City Attorney Smith explained that a moratorium on dispensaries would position the City to have discussion with Council on the feasibility of expanding the green zone and what businesses would be suitable for those areas.

Council/Committee Chair Wilson voiced her support for Council considering the types of businesses allowed in the green zones as well as decreasing the buffer.

With regards to amending the ordinance as it related to the residential buffer, City Attorney Smith stated they would have that discussion with Council and if they wanted to proceed he would bring it back to the Committee.

Outside Legal Counsel Ziegler stated that if the ordinance was amended it may need to go to the Planning Commission in terms of zoning and land use and then go to Council for the first and second reading.

City Attorney Smith stated he would take the item to Council to have a broader discussion regarding the changes Council wanted to make.

8. MESA ANTIOCH, LLC REQUEST FOR AMENDMENT TO BILLBOARD LEASE AGREEMENT

Outside Legal Counsel Ziegler explained that the current lease agreement with Mesa prohibited advertising of cannabis businesses/products. She stated that Mesa approached the City with interest to which her response was, what would be the added benefit for the City. She commented that the current agreement gave the City a basic monthly lease amount plus 25% of gross revenues exceeding the lease, which they had offered to increase to 30%; however, the finance department advised that gross receipts had never exceeded the lease amount. She stated if the committee were interested in pursuing changes to the lease to allow for cannabis advertising, her recommendation would be to increase the monthly rent or specify a different amount for cannabis advertising and include an audit provision.

A. Public Comment

Manny Soliz, Antioch resident, suggested the City increase the percentage or increase the lease by a certain amount.

B. Discussion and Direction to staff

In response to Council/Committee Chair Wilson, City Attorney Smith explained that the change being requested only related to Cannabis advertising. He noted the initial discussion would be

if the Committee wanted to allow cannabis advertising and if so, how they would get the appropriate value for the advertising and ensure payment.

Council/Committee Chair Wilson stated she did not have an objection to advertising cannabis businesses and supported increasing the lease amount. She suggested the extra funding from the ads go specifically to an organization that was working with the underserved in the community.

Director of Economic Development Reed responded that revenue generated from this property was required to benefit pre-1980 City owned parks.

Council/Committee Chair Wilson stated that she would like to see the budget for those funds.

City Attorney Smith stated he believed there was an opportunity to negotiate a flat rate increase so auditing would not be necessary.

Council/Committee Member Torres-Walker questioned if there was a survey of parks that qualified for the funding and if there was an accounting for the money spent.

City Attorney Smith stated staff would ask finance for the details of that funding.

Outside Legal Counsel Ziegler clarified that the City received a base lease amount monthly and over and above that the City was supposed to get a percentage of gross receipts under certain conditions; however, those conditions had never been met.

City Attorney Smith suggested increasing the lease so they would not have to add an auditing component. He stated they would proceed with trying to negotiate an agreement with Mesa.

Director of Economic Development Reed commented that people were not utilizing billboards during COVID-19 and they were struggling to provide revenue to the City; however, the one caveat that was going well was cannabis operations because they were deemed essential businesses.

9. ADJOURNMENT

On motion by Council/Committee Chair Wilson, seconded by Council/Committee Member Torres-Walker the Committee adjourned the meeting a 1:39 P.M.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk

**AGENDA SPECIAL MEETING ANTIOCH CITY COUNCIL
CANNABIS STANDING COMMITTEE
COUNCIL MEMBERS WILSON AND TORRES-WALKER
THURSDAY, APRIL 22, 2021
2:00 P.M.**

Special Meeting
2:00 P.M.

April 22, 2021
Meeting Conducted Remotely

The City of Antioch, in response to the Executive Order of the Governor and the Order of the Health Officer of Contra Costa County concerning the Novel Coronavirus Disease (COVID-19), held the Cannabis Standing Committee meeting live stream (at www.antiochca.gov/csc/meeting/). The Cannabis Standing Committee meeting was conducted utilizing Zoom Audio/Video Technology.

1. ROLL CALL

Mayor Pro Tem/Committee Chair Wilson called the meeting to order at 2:04 P.M. City Attorney Smith called the roll.

Present: Mayor Pro Tem/Committee Chair Wilson and Council/Committee Member Torres-Walker

Staff: City Attorney, Thomas Lloyd Smith
Outside Legal Counsel, Ruthann Ziegler
Director of Economic Development, Kwame Reed
Director of Community Development, Forrest Ebbs
Planning Manager, Alexis Morris
Minutes Clerk, Kitty Eiden

2. INTRODUCTIONS

City Attorney Smith gave introductory comments and discussed parliamentary procedures.

PLEDGE OF ALLEGEANCE

3. PUBLIC COMMENT ON UNAGENDIZED ITEMS – None

4. APPROVAL OF CANNABIS STANDING COMMITTEE SPECIAL MEETING MINUTES FOR JANUARY 15, 2021.

On motion by Mayor Pro Tem/Committee Chair Wilson, seconded by Council/Committee Member Torres-Walker the Cannabis Standing Committee unanimously continued the minutes for January 15, 2021.

5. PROPOSED AMENDMENT TO EXISTING BILLBOARD LEASE WITH MESA ANTIOCH, LLC

City Attorney Smith and Legal Counsel Ziegler presented the staff report dated April 22, 2021 recommending the Cannabis Standing Committee review the proposed changes to the existing billboard lease between the City and Mesa Antioch, LLC, and provide direction to staff either to prepare further modifications or to present the matter to the City Council for review and possible action. Ms. Ziegler reported there was a typographical error in the staff report, and it should read that the City shall receive 25% percent of the gross revenue for advertisements related to cannabis.

Discussion and Direction to staff

Mayor Pro Tem/Committee Chair Wilson stated that previous discussion suggested that a portion of the billboard revenue be allocated to youth programs. She questioned if that was part of the agreement.

City Attorney Smith clarified the City could handle the allocation of revenue internally. He noted if the Committee wanted that item to move forward, staff would bring the issue to Council with the contact amendment.

Mayor Pro Tem/Committee Chair Wilson opposed extending the contract past 2048, at this time.

Public Comment

Mike McCoy, Mesa Outdoor thanked the Cannabis Standing Committee for their consideration of the contract modifications. He noted they looked forward to continuing to work in partnership with local businesses.

On motion by Mayor Pro Tem/Committee Chair Wilson, seconded by Council/Committee Member Torres-Walker the Cannabis Standing Committee unanimously moved the proposed amendment to first amended and restated lease agreement with Mesa Antioch LLC (Billboard Lease) to the City Council with the recommendation to delete the prohibition and allow the advertising of medical or commercial marijuana if it related to businesses located in the City of Antioch. The also agreed to maintain 2048 as the term of the lease.

City Attorney Smith confirmed that this item would go before the City Council in May.

6. PROPOSED CHANGES TO CANNABIS BUSINESS ORDNIANCE RELATING TO LOCATION AND TYPES OF CANNABIS BUSINESSES (ANTIOCH MUNICIPAL CODE SECTIONS 9-5.203, 9-5.3801, 9-5.3845)

City Attorney Smith and Legal Counsel Ziegler presented the staff report dated April 22, 2021 recommending the Cannabis Standing Committee review the attached proposed ordinance and provide direction to staff for further modifications or to begin environmental review, with the goal of presenting the draft ordinance to the Planning Commission for review and ultimately to the City Council for review and possible adoption.

In response to Council/Committee Member Torres-Walker, Outside Legal Counsel Ziegler explained type #9, #13, #6 and #7 licenses. She noted the State had many restrictions on type 7 licenses and those applications would be carefully evaluated prior to going to Council.

Director of Economic Development Reed added that volatile solvents could lend themselves to explosions which was why they would only be allowed in buildings designed for that purpose and prohibited from locating in multi-tenant building. He noted this use would be under professional guidance and would need to be approved by many agencies.

Outside Legal Counsel Ziegler stated a type 7 business had not yet been approved in Antioch; however, there was an application that had been deemed complete for a cannabis business that included retail, distribution, and a type 7 license for Wilbur Avenue.

Planning Manager Morris added that the application was for a freestanding building that would be developed from the ground up and it was their hope that it would be contained if something negative occurred. She noted in addition to the state, multiple agencies would be involved in the review and permitting process.

City Attorney Smith suggested that Committee may want to discuss whether to include the downtown area into the discussion of expanding the overlay to create more vibrancy into the area.

Director of Economic Development Reed reported that there had been interest of operators for the downtown area.

A. Public Comment

Hugh Henderson, representing property owners at 2615 Somersville Road, thanked the Committee for allowing him to comment and stated they were excited the Committee was considering the expansion of the overlay that included their area. He announced property owners were prepared to move forward with a shovel ready project, should the expansion occur.

B. Discussion and Direction to staff

Mayor Pro Tem/Committee Chair Wilson voiced her support for including the downtown area when this item was brought to Council and noted that since it had been discussed previously, she would consider the Somersville area a priority.

Director of Economic Development Reed reported several boutique/upscale dispensary businesses had expressed interest in established retail areas.

Council/Committee Member Torres-Walker requested consumer data for current cannabis businesses in Antioch.

Director of Economic Development Reed stated he could reach out to the businesses; however, they may not want to disclose the information.

Mayor Pro Tem/Committee Chair Wilson suggested staff provide an overview of the data associated with existing cannabis businesses in Antioch.

In response to Mayor Pro Tem/Committee Chair Wilson, Director of Community Development Ebbs explained the Downtown Specific Plan defined downtown as 10th Street north from "A" to Auto Center Drive; however, some people considered downtown extended to 18th Street and others to Highway 4.

Director of Economic Development Reed commented for this proposed use he would suggest utilizing the geographical boundaries for the Rivertown Dining District which was 5th Street to the River and E Street to Marina.

Council/Committee Member Torres-Walker stated she would like to see the proposed area and purpose defined prior to this matter going to Council. She questioned if adding this area would impact the overlay.

Outside Legal Counsel Ziegler stated that the City could restrict the downtown area to retail uses.

City Attorney Smith commented that retail uses would generate foot traffic, help the economy and be an attraction for downtown.

Mayor Pro Tem/Committee Chair Wilson agreed with directing staff to bring this item back to the Committee.

City Attorney Smith stated he would bring this item back as soon as possible so it could be discussed and brought forward to Council with the Ordinance amendments.

Outside Legal Counsel Ziegler stated she could have a report prepared next week.

City Attorney Smith stated that a Standing Committee Meeting would be scheduled in two weeks to discuss the Ordinance amendments.

Outside Legal Counsel Ziegler explained that the Ordinance amendments needed to go before the Planning Commission prior to Council for consideration.

In response to Director of Community Development Ebbs, the Committee recommended including the core downtown area as well as the 10th Street in the analysis.

Director of Community Development Ebbs announced that Planning Manager Morris had taken a position elsewhere and tomorrow would be her last day with the City.

Planning Manager Morris reported that she would be the Community Development Director for the City of Brentwood and would miss working for the City of Antioch.

7. ADJOURNMENT

On motion by Council/Committee Member Torres Walker, seconded by Mayor Pro Tem/Committee Chair Wilson the Committee adjourned the meeting a 2:49 P.M.

Respectfully submitted:

Kitty Eiden

KITTY EIDEN, Minutes Clerk

STAFF REPORT TO THE CANNABIS COMMITTEE

DATE: Special Meeting of May 19, 2021

TO: Mayor Pro Tem Wilson and Councilmember Torres-Walker

PREPARED BY: Ruthann G. Ziegler, Special Counsel

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

SUBJECT: Proposed Amendment to the Cannabis Business Ordinance (AMC §§9-5.203, 9-5.3801, 9-5.3845)

RECOMMENDED ACTION

It is recommended that the Cannabis Committee review the attached proposed ordinance and provide direction to staff.

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 different types of cannabis businesses.

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 and add the definition of “sensitive use”, both of which are the bases for the locational restrictions included in §9-5.3845.
- AMC §9-5.3801: The ordinance divides the existing Cannabis Business (CB) district into distinct geographical areas within the City.
- AMC §9-5.3845: The ordinance specifies which types of cannabis businesses would be allowed in each separate Cannabis Business district.
- AMC §9-5.3845: The ordinance gives the Zoning Administrator limited discretion for handling new types of cannabis licenses.

DISCUSSION

The proposed ordinance has three key parts: (1) modifying the existing Cannabis Business district to add new areas within the City 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, as well as narrowing 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. They 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.¹

CB 3 Northwest Downtown/Marina: the area bounded by 4th St., BNSF rail line, and L Street.
CB 3 allows most types of cannabis businesses, excluding storefront retail.²

CB 4 Somersville District: The area bounded by Buchanan Rd., Delta Fair Blvd., and Fairview Drive.
CB 4 allows storefront retail only.

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 storefront 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.

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 from 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;

¹ “Storefront retail” is a Type 10 license and allows the storefront to deliver cannabis to individual customers.

² Both CB 3 and CB 5 would allow a Type 12 microbusiness, which can include retail but, if so, must also include at least two of the following three uses: manufacturing, cultivation, and distribution.

- (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 describe the four categories specified above. The new 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. While state law references a 600-foot buffer for the three other uses referenced above, state law allows a city to reduce that 600-foot buffer. Several neighboring jurisdictions have also reduced that 600-foot buffer and at least one does not include any buffer as to residential uses.

State law does not require any separation or buffer between retail uses. The City’s existing regulations include a 600-foot buffer between retail uses. Another change to §9-5.203 would narrow 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.

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 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.

State law specifies that the buffer for the non-residential uses is to be measured property line-to-property line. Staff recommends using that same property line-to-line measurement for residential uses as well.

Since state law does not require any separation between retail cannabis businesses, state law is silent as to how to measure the buffer between retail businesses. Because the City may want to encourage retail in those areas where allowed, staff recommends measuring the distance between retail businesses using primary door front-to-door front.

The proposed ordinance reflects these recommendations as to measurements.

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 buffer in each of the six areas.

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

This area is the current “green zone.” It would retain the existing 600-foot buffer, between both 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, excluding retail-no storefront (Type 9) and distribution-transport only (Type 13). The latter two are excluded since they are unlikely to generate much foot traffic or spin-off business for the neighboring commercial areas.

CB 2 Downtown Antioch

This area is designated as Mixed Use within the Downtown Specific Plan. To encourage retail development, this area will allow only retail storefront cannabis businesses (Type 10) and would require only a 200-foot buffer 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.

CB 3 Northwest Downtown/Marina

This area historically had medium/heavy industrial uses. Many of the existing buildings are industrial in nature and could be suitable for large-scale indoor cultivation and manufacturing. Because of the historic industrial nature of this area and the comparatively few residential uses, staff recommends reducing the buffer between cannabis businesses and sensitive uses to 200 feet.

Furthermore, to encourage retail in other CB districts, storefront retail cannabis businesses (Type 10) would not be allowed in this area. Similar to CB 1, Type 9 and Type 13 businesses would not be allowed in this area.

CB 4 Somersville District

This area would be restricted to storefront retail (Type 10) only. While the ordinance is currently drafted to retain the 600-foot buffer, the Committee may wish to consider whether to reduce this to 200 feet.

CB 5 Slatten Ranch Business Park

This area could attract large-scale manufacturing, distribution, and cultivation. To encourage those uses and to help focus retail in other areas where the City may want to encourage foot traffic and spin-off business, Storefront retail would not be allowed in this area.

Staff recommends reducing the buffer between sensitive uses to 200 feet.

CB 6 Slatten Ranch/Empire Center

This smaller portion of the Slatten Ranch area is in proximity to existing stores. Therefore, staff recommends allowing only storefront retail (Type 10) in this area and reducing the buffer for sensitive uses and for retail to 200 feet.

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

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, 10, 11,12	City Council Use Permit
CB 2	10	City Council Use Permit
CB 3	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 6, 8, 11, 12	City Council Use Permit
CB 4	10	City Council Use Permit
CB 5	1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 6, 7, 8, 11, 12	City Council Use Permit
CB 6	10	City Council Use Permit

TABLE B		
Overlay District	Between Retail Uses	From Sensitive Party
CB 1	600'	600'
CB 2	200'	200' ³
CB 3	600'	200'
CB 4	600'	600'
CB 5	600'	200'
CB 6	200'	200'

4. Other proposed changes

a. Type 7 license

A type 7 license allows manufacturing with volatile solvents. The proposed ordinance would specify that, in those areas where a Type 7 license is allowed, the business cannot be in a multi-tenant building.

b. Discouraged uses

The proposed ordinance identifies uses which, although not prohibited, are discouraged. These are Type 9 (retail without a storefront) and Type 13

³ Please note that, to encourage retail development in CB 2, the definition of “sensitive use” for CB 2 only does not include residential uses.

(distribution-transport only). The proposed ordinance allows the Council to approve such uses upon a finding of “unique circumstances.”

c. New types of licenses

State law allows certain state agencies to authorize additional types of cannabis licenses. Under this provision, various state agencies have authorized at least five types of licenses. Since the state may continue to authorize new types of licenses, the proposed ordinance gives the Zoning Administrator discretion to include such license types within the proposed CB districts, or to exclude them.

d. Type 14 license- temporary events

A type 14 license allows the license holder to conduct a temporary cannabis event such as a fair, expo, etc. Because of the unique, short-term nature of these events, the proposed ordinance grants the Zoning Administrator the authority to grant a temporary administrative use permit allowing a Type 14 license if all of the specified conditions are met. The conditions are:

- The Zoning Administrator holds a noticed hearing.
- The Zoning Administrator determines, based on the public hearing, that the proposed temporary use pursuant to the Type 14 license substantially complies with the intent of this section and the City’s rules and regulations.
- The City Manager and the Chief of Police concur that a temporary administrative use permit should be issued.
- The applicant for the license pays all fees and charges due to the City.
- The applicant provides evidence, satisfactory to the City Attorney, of any insurance, by certificate and endorsement, or bonds required of the applicant.
- The applicant complies with any and all other conditions imposed by the Zoning Administrator.

The draft ordinance is attached as Exhibit A. A chart showing the types of cannabis licenses is attached as Exhibit B.

Attached as Exhibit A is a redlined version contrasting the existing ordinance with the proposed ordinance. Consistent with the Committee’s direction at its April 29, 2021 meeting, the downtown area has been added as a permissible area for storefront cannabis sales.

At this point, Staff recommends that the Cannabis Standing Committee either direct staff to begin environmental review, with the goal of presenting the draft ordinance to the Planning Commission for review and ultimately to the City Council for review and possible adoption and/or request any desired modifications.

ATTACHMENTS

- A. Proposed ordinance
- B. Chart of types of licenses

Exhibit B

Types of Cannabis Business Licenses

License type	Use
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 ¹	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

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

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”, AND MODIFYING THE
CANNABIS BUSINESS OVERLAY DISTRICT BY SPECIFYING THE LOCATION OF
DIFFERENT TYPES OF CANNABIS BUSINESSES**

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: Any private or public school serving students in grades kindergarten through high school, any public park owned or operated by the City; a child care center, as defined by this municipal code, or 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, 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 April 22, 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** Northwest Downtown/Marina- the area bounded by 4th St., BNSF rail line, and L St.
CB 3 allows most types of cannabis businesses, excluding retail.
 - CB 4** Somersville District—the area bounded by Buchanan Rd., Delta Fair Blvd., and Fairview Dr.
CB 4 allows storefront retail only.
 - 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 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)

(CD) 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.

TABLE A		
<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>1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 6, 7, 8, 11, 12</u>	<u>City Council Use Permit</u>
<u>CB 4</u>	<u>10</u>	<u>City Council Use Permit</u>
<u>CB 5</u>	<u>1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B, 4, 6, 7, 8, 11, 12</u>	<u>City Council Use Permit</u>
<u>CB 6</u>	<u>10</u>	<u>City Council Use Permit</u>

- (1) License type 7 is not allowed in multi-tenant buildings in CB 1, CB 3, or CB 5.

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

TABLE 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>200'</u>
<u>CB 4</u>	<u>600'</u>	<u>600'</u>
<u>CB 5</u>	<u>600'</u>	<u>200'</u>
<u>CB 6</u>	<u>200'</u>	<u>200'</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.
- (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 between the primary entrance/exit for the business’ customers for each retail business.

(F) The license types described herein are intended to reflect the available licenses as of the date of this Ordinance. Since new types of license types may be developed by the state, the Zoning Administrator shall evaluate any new types of licenses to determine if there is substantial consistency with an existing license type regarding the nature of the business. Based on that determination, the Zoning Administrator may authorize the processing of an application for such cannabis business consistent with this Code. The City shall apply the above-prescribed requirements accordingly until such time that this section is revised to include the new type of license.

(G) A cannabis business holding license Types 9 or 13, while not prohibited, shall require findings demonstrating unique circumstances to be approved by the City.

(H) A Type 14 license may be allowed only if the Zoning Administrator issues a temporary administrative use permit after all of the following conditions are met:

- (1) Notwithstanding §9-5.2701(B), the Zoning Administrator conducts a public hearing, complying with the notice requirements of §9-5.2701(C);
- (2) The Zoning Administrator determines, based on the public hearing, that the proposed temporary use pursuant to the Type 14 license substantially complies with the intent of this section and the City’s rules and regulations;
- (3) The City Manager and the Chief of Police concur that a temporary administrative use permit should be issued;
- (4) The applicant for the license pays all fees and charges due to the City;
- (5) The applicant provides evidence, satisfactory to the City Attorney, of any insurance, by certificate and endorsement, or bonds required of the applicant;
and
- (6) The applicant complies with any and all other conditions imposed by the Zoning Administrator.

SECTION 7: 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 8. CEQA:

The above amendments to the City's Municipal Code are

SECTION 9:

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

ATTEST:

Elizabeth Householder
City Clerk