

CANNABIS BUSINESS LAND USE AND OPERATIONAL GUIDELINES



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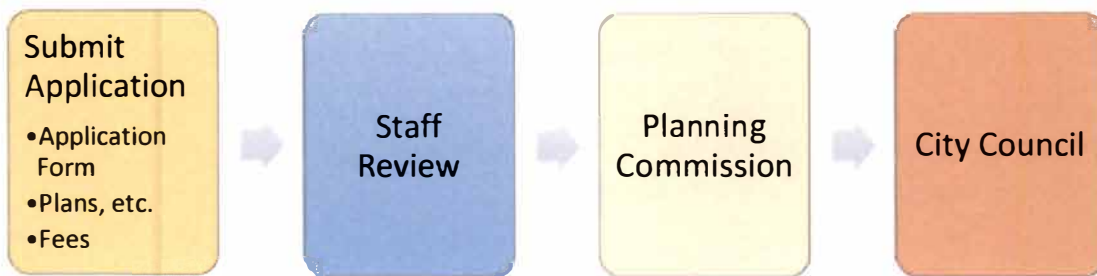
Adopted by the City Council on September 11, 2018

Background

On May 22, 2018, the Antioch City Council introduced an Ordinance amending Title 9, Chapter 5 of the Antioch Municipal Code, thereby creating new provisions for the consideration of cannabis businesses in the City of Antioch. The Ordinance was read again on June 26 and became final on July 26, 2018. A copy of the Ordinance is contained in this document. The Code Amendment established new definitions, imposed basic standards, and created a new Cannabis Business (CB) Zoning Overlay District. Within the CB Zoning Overlay District, a party may apply for a Use Permit from the City Council for the establishment of a Cannabis Business.

Process

The process for applying for a Use Permit for a Cannabis Business is as follows:



City Council decisions are not appealable. City staff may, at its discretion, elect to use outside consultants to process an application. In such a case, the applicant is required to pay the full cost of the consultant contract prior to initiation of the work.

City staff may request a pre-application meeting with the applicant and property owner to discuss the proposal prior to a formal submittal.

Fees

The fee for an application for a Use Permit for a Cannabis Business is established in the Master Fee Schedule. As of July 1, 2018, a \$2,000 deposit is required and all subsequent costs are based on expended time and materials. If an outside consultant is used, the applicant will be responsible for the entire cost of the consultant contract and any additional staff time and materials.

Definitions

The following definitions are established in Section 9-5.203 of the Antioch Municipal Code.

Cannabis Business. A person, partnership, corporation, company, association, collective, or cooperative which engages in commercial cannabis use(s).

Cannabis Retail. A cannabis business that distributes, dispenses, stores, exchanges, packages, re-packages, labels, sells, makes available, transmits, or gives away 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 and/or delivering cannabis or cannabis products as part of a sale, pursuant to a Type 10 cannabis license, or a cannabis license subsequently established.

Cannabis. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended from time to time. Any reference to cannabis or cannabis products should include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant; fiber produced from the stalks; any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from); fiber, or the sterilized seed of the plant which is incapable of germination.

Cannabis Product. Cannabis that has undergone a process whereby the plant material has been transformed into concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

Amendments

These Guidelines may be amended if initiated by the City Council, Planning Commission or City staff. Amendments require approval by the City Council.

Basic Standards and Findings

Within the newly-adopted Ordinance are basic standards for operation for Cannabis Businesses. They are as follows:

A cannabis business shall be located no closer than 600' 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 of Antioch;
- (3) Any property occupied by a residential land use or with a residential or General Plan Land Use Designation or zoning designation.

When an application is received and determined to be complete, staff will make a recommendation to the Planning Commission and, ultimately, the City Council. The basis of this recommendation will be the ability to make the required findings for a Use Permit, which are as follows:

- (a) That the granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity;
- (b) That the use applied for at the location indicated is properly one for which a use permit is authorized;
- (c) That the site for the proposed use is adequate in size and shape to accommodate such use, and all yard spaces, walls, fences, parking, loading, landscaping, and other features required, to other uses in the neighborhood;
- (d) That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use; and

- (e) That the granting of such use permit will not adversely affect the comprehensive General Plan.

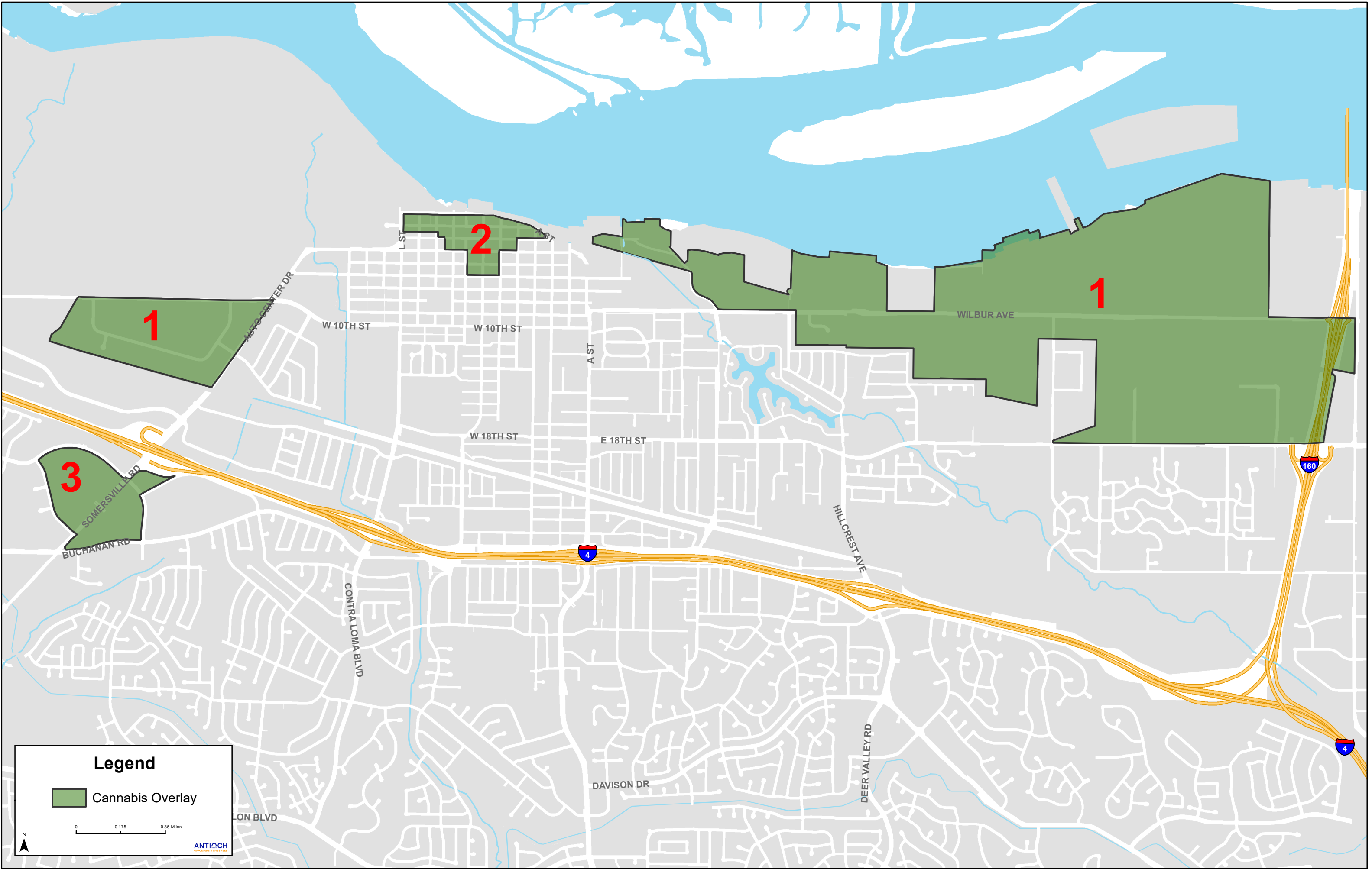
In addition to the standard findings for approval of a Use Permit, the City Council must also make the following finding for a Cannabis Business.

- (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 of Antioch.

In order for the City to make the unique finding for a Cannabis Business, the City of Antioch may ask that the applicant enter into a Development Agreement to impose additional financial obligations on the Cannabis Business to address anticipated increased costs to provide necessary City services, including police.

Cannabis Business Overlay District Map

A Cannabis Business Use Permit Application may be accepted for properties within the Cannabis Business (CB) Zoning Overlay District, shown in green on the following maps:



Guidelines

Purpose and Applicability

The purpose of these guidelines is to provide the public with the City of Antioch's general expectations relating to the design and operation of a Cannabis Business. These guidelines were adopted by the Antioch City Council on September 11, 2018 by Resolution No. 2018/117*. These guidelines will form the basis of a staff recommendation to the Planning Commission and City Council and will contribute to the written findings for approval. In addition, these guidelines will be required, as appropriate, as Conditions of any forthcoming approval. Conformance to all State regulations is mandatory and cannot be modified by Use Permit.

Security

1. Cannabis Businesses should provide adequate security on the premises, including any on-site security, lighting and alarms, to insure the public safety and the safety of persons within the facility and to protect the premises from theft.
2. All Cannabis Businesses should provide at least one, State-licensed, security guard on the premises during hours of operation.
3. Building Security. All points of ingress and egress to a Cannabis Business should be secured with Building Code compliant commercial-grade, non-residential door locks and/or window locks. Cannabis Retail businesses should contain crash barriers, such as bollards, to separate parking or vehicle-accessible areas, from storefronts.
4. Emergency Access. Security measures should be designed to ensure emergency access is provided to the Police Department and Fire Department for all areas on the premises in the case of an emergency.
5. Cameras. Security surveillance video cameras should be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, and dispensed. The cameras should allow for remote access to be provided to the Antioch Police Department. The security surveillance cameras should be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras should remain active at all times and should be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and should be maintained for sixty (60) days.
6. A professionally monitored security alarm system should be installed and maintained in good working condition. The alarm system should include sensors to detect entry and exit from all secure areas and all windows. Cannabis Businesses should keep the name and contact information of the alarm system installation and monitoring company as part of the Commercial Cannabis Business's onsite books and records. Cannabis Operators should also identify a local contact who will be responsible for addressing security and safety issues and should provide and keep current that contact information to the Police Department as part of the permitting process.
7. Cannabis products and associated product manufacturing, distribution or cultivation waste should be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.

8. Signs should be used sparingly and should not state that cannabis or cannabis products are stored, sold or handled on the site. Images of cannabis leaves, green crosses, or similar commonly-identifiable graphics should be avoided. Text signage is preferable.
9. A secured, gated or enclosed area for receipt and delivery of inventory should be provided.
10. Hours of operation for retail uses should be limited to between 8:00 am and 8:00 pm.

Inspections

11. Inspections. During regular business hours, all Cannabis Business premises should be accessible, upon request, to an authorized city employee or representative for random and/or unannounced inspections.

Odor Control

12. All Cannabis Businesses should incorporate and maintain adequate on-site odor control measures such that the odors as a result of cultivation, manufacturing, distribution, transport or sales of Cannabis and Cannabis-related products cannot be readily detected from outside of the structure in which the Business operates or from other non-Cannabis businesses adjoining the Commercial Cannabis Business.

Manufacturing

13. Loop Systems. No closed loop ventilation systems should be utilized without prior inspection and approval of the City's Building Official and Fire Code Official.
14. Standards of Equipment. Manufacturing, processing and analytical testing devices used by the Cannabis Manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or engineer and approved for the intended use by the City's Building Official and Fire Code Official. Such compliance shall be demonstrated to the satisfaction of the Building Official prior to occupancy of the site.
15. Edible Product Manufacturing. Commercial Cannabis Businesses that sell or manufacture edible cannabis products should obtain any necessary permits from the Contra Costa County Environmental Health Division and/or other permitting body. Permit holders should comply with State and County health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

Location and Separation

16. Separation. Per the Antioch Municipal Code, any Cannabis Business must be located at least 600' from the following:
 - Any private or public school serving students grade kindergarten through high school;
 - Any public park owned or operated by the City of Antioch;
 - Any property occupied by a residential land use or with a residential or General Plan Land Use Designation or zoning designation.

This separation will be measured from the furthest extent of the Cannabis Business operation, which may be a building wall, property line, parking lot boundary or other feature.

17. Buffers. In addition to the basic separation requirements, all Cannabis Retail businesses should reflect the following:

- Overconcentration. To avoid overconcentration, a Cannabis Retail business, as defined, should not be located within 600 feet of any other Cannabis Retail business within the City. This separation does not apply to non-retail Cannabis Businesses; a Cannabis Retail business and a non-retail Cannabis Business may be located on the same site or within close proximity.
- Legal Non-Conforming Use. Establishment of a school or sensitive land use, as defined in Business and Professions Code Section 26054 and Health and Safety Code Section 11362.768, within the required buffer of a Cannabis Business after such facility has obtained a Conditional Use Permit shall render the Cannabis Retail business a legally non-conforming use.

Delivery Services

18. If delivery services will be provided as part of the Cannabis Retail business, the application should describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in state law.

19. Delivery vehicles should not contain identifiable markings that associate the delivery service with the cannabis business.

20. Delivery services operating within the City of Antioch, but whose physical place of business is located outside of the City of Antioch is not governed by this Ordinance.

21. A Cannabis Business, including delivery, may not be operated through a Home Occupation Use Permit or from a residential building.

Cultivation

22. The commercial cultivation of Cannabis should only be conducted within a fully enclosed space.

23. Pesticides. The Cultivation of Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging should comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

Cannabis Retail

24. Cannabis Retail businesses should comply with the following operational requirements:

- No person should be permitted to enter a Cannabis Retail business without government issued photo identification. All persons entering the business must be at least 21 years of age. A Cannabis Retail business should not provide Cannabis or Cannabis Products (Medical or Non-Medical) to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government-issued photo identification card or a valid physician's recommendation under Section 11362.712 of the Health and Safety Code. The operator should have an electronic device to read and validate valid identification cards and driver's licenses.

- Hours of Operation. A Cannabis Retail business may operate up to seven (7) days per week with the hours of operation determined by the City Council with the issuance of a Conditional Use Permit. The City may impose more restrictive hours of operation due to site-specific conditions or as the result of excessive and extraordinary calls for service, as determined by the City's Police Department.
- Smoking or ingestion of cannabis products on-site are discouraged. If it is proposed, there should be a complete description of the operation included.
- Secured Access. A Cannabis Retail business should be designed to prevent unauthorized entrance into areas containing Cannabis or Cannabis Products. Limited access areas accessible to only authorized personnel should be established.
- Product Storage. Cannabis Products that are not used for display purposes or immediate sale should be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
- Cannabis Paraphernalia. No Cannabis Retail business should sell or display any cannabis related paraphernalia or any implement that may be used to administer Cannabis or Cannabis Products unless specifically described and authorized in the Conditional Use Permit. The sale of such products must comply with any other applicable state regulations.
- Site Management. The Cannabis Retail business operator should take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "Reasonable steps" should include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request. In addition, "Reasonable steps" should also include regular maintenance of the entire property, including daily pick-up of trash, regular site maintenance, cover up of graffiti, etc.
- Permit Display. All Cannabis Retail businesses should maintain a copy of the Cannabis Business Use Permit and City of Antioch Business License issued by the City, as well as any other State and/or County licences, on display during business hours and in a conspicuous place so that they may be readily seen by all persons entering the facility.
- Storefront Entrance & Accessibility. The storefront entrance of a Cannabis Retail business should be ADA accessible and placed in a visible location that provides an unobstructed view from the public right-of-way. No signs, tinting, or other graphic material may be used to obscure the storefront windows.
- Drive-through, Drive-up or walk-up window services in conjunction with Cannabis Retail business are strongly discouraged.

Permit Revocation or Modification

25. The City Council may require modification, discontinuance or revocation of a Conditional Use Permit for a Cannabis Business if it finds that the use is operated or maintained in a manner that it:

- Adversely affects the health, peace or safety of persons living or working in the surrounding area;
- Contributes to a public nuisance; or
- Has resulted in excessive nuisance activities including disturbances of the peace, illegal drug activity, diversion of Cannabis or Cannabis Products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
- Has resulted in or has been the target of criminal activity requiring undue attention and dedication of Antioch Police Department resources; or

- Violates any provision of the Municipal Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.