

City of Hesperia

STAFF REPORT



DATE: October 15, 2024

TO: Mayor and Council Members

FROM: Rachel Molina, City Manager **SECOND READING AND ADOPTION**

BY: Pam K. Lee, City Attorney

SUBJECT: Amendments to Chapter 5.50 of the Hesperia Municipal Code Related to Medical Cannabis Business Licenses

RECOMMENDED ACTION

It is recommended that the City Council introduce and place on first reading Ordinance No. 2024-12 amending Chapter 5.50 of the Hesperia Municipal Code relating to medical cannabis business licenses.

BACKGROUND

On December 5, 2017, the City Council adopted Ordinance No. 2017-15 (i) prohibiting all cannabis activities and license types within the City, except for M-Type 10 Retailer, limited to non-storefront medical delivery only services; and (ii) creating land use regulations related to such activities; and (iii) adopting a map detailing the areas where cannabis non-storefront medical delivery only services would be able to operate within the City.

On December 7, 2017, the State of California issued emergency regulations related to licensing of commercial cannabis activities in the State, and created several new license types, including M-Type 9 Non-Storefront Retailer, a retail license that by legal definition does not allow store front activities, and is limited to delivery services only.

On December 19, 2017, adopted Ordinance No. 2017-22, prohibiting M-Type 10 Retailer, and only allowing M-Type 9-Non-Storefront Retailer licenses within the City.

On March 20, 2018, the City Council repealed Ordinance No. 2017-22 with Ordinance No. 2018-01, amending Chapter 5.50 of the Hesperia Municipal Code related to business licenses and regulations on dispensing and delivery of medical cannabis, as it applies to businesses engaged in non-storefront medical cannabis delivery only services.

On November 6, 2018, the voters of the City of Hesperia voted to approve and adopt Ordinance No. 2018-08, adding Chapter 3.18 of the Hesperia Municipal Code relating to cannabis business taxes.

On October 18, 2022 the City Council adopted Resolution No. 2022-75, prohibiting further renewals of business licenses M-Type 9 Non-Storefront Retailer licenses of businesses engaging in non-storefront medical cannabis delivery only services on or after December 1, 2023, pending the repeal of the cannabis program, and directed staff to prepare ordinance(s) for the City Council's consideration to repeal the commercial cannabis program in its entirety by November 30, 2024.

ISSUES/ANALYSIS

The Cannabis Regulations Program will officially end on November 30, 2024 due to the approval of Resolution No. 2022-75. Since the Cannabis Regulations Program will be ending, staff recommends revising Chapter 5.50 of the Hesperia Municipal Code to wind down the Program.

There are currently three non-storefront medical cannabis delivery only services in operation. In order to minimize/avoid any claims of a regulatory takings, staff recommends an amortization appeal process to allow existing businesses with valid permits and currently operating in good standing to continue their operations for a certain amount of time (generally not to exceed five (5) years), based on the documentary evidence of their economic and financial situations. The provisions of the amortization hearing process includes the following:

- Requiring the submission of a written appeal to the city manager within 15 days of the effective date of the ordinance, which contains all relevant documents and explanation of the need to continue operations, based on factors including, but not limited to, reasonable investment-backed expectations and other economic or financial information. The appeal must be signed under penalty of perjury.
- Within 45 days of the written appeal, or as mutually agreed to by the parties, the city manager or designee will conduct an administrative hearing where oral and written testimony shall be provided.
- Within seven days after the close of the hearing, the city manager or designee will issue a written decision whether to allow the continued operation of the business, and for how long. The decision shall be binding and final, subject to judicial review under section 1094.5 and 1094.6 of the Code of Civil Procedure.

Any businesses that are allowed to continue operations during the amortization period are still required to comply with all the provisions of the cannabis program under Chapter 5.50 of the Hesperia Municipal Code.

Once all businesses have winded down and completed their amortization period, staff will bring back an ordinance to repeal the entire cannabis program and references to cannabis uses and regulations within the Hesperia Municipal Code (under Chapter 5.50) and the Hesperia Development Code (under Chapter 16.16).

ENVIRONMENTAL REVIEW

Pursuant to the provisions of CEQA and State CEQA Guidelines (Sections 15000 et seq., Title 14 the California Code of Regulations) the City has determined that the Ordinance is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no significant effect on the environment. The proposed Ordinance is also exempt from the requirements of Section 16.12.415(B)(10) of the City's CEQA Guidelines, as the Ordinance does not propose to increase the density or intensity allowed in the General Plan.

CITY GOAL SUPPORTED BY THIS ITEM

Future Development - Facilitate balanced growth to ensure cohesive community development and pursue economic development.

FISCAL IMPACT

There are no fiscal impacts identified with this action.

ALTERNATIVE(S)

1. Provide alternative direction to staff.

ATTACHMENT(S)

1. Ordinance 2024-12
2. Exhibit A – Chapter 5.50 of the Hesperia Municipal Code