

ORDINANCE NO. 2024-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING CHAPTER 5.50 OF THE HESPERIA MUNICIPAL CODE RELATING TO MEDICAL CANNABIS BUSINESS LICENSES

WHEREAS, the City of Hesperia has the authority and responsibility to protect the public health, safety, and welfare of the City, and is responsible for adopting and implementing land use regulations within its boundaries; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, on March 20, 2018, the City Council repealed Ordinance No. 2017-22 with Ordinance No. 2018-01, amending Chapter 5.50 of the Hesperia Municipal Code related to business licenses and regulations on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; and

WHEREAS, Section 5.50.040(C) of the Hesperia Municipal Code provides that delivery dispensary permits shall automatically expire after one year, and Section 5.50.040(D) provides that the annual renewal of permits is subject to the same process as new applications; and

WHEREAS, on March 20, 2018, the City Council adopted Ordinance No. 2018-02, amending Section 16.16.470 of the Hesperia Municipal Code relating to minimum distance requirements of businesses engaging in non-storefront medical cannabis delivery only services; and

WHEREAS, on March 20, 2018, the City Council adopted Ordinance No. 2018-03, amending certain provisions of Chapter 16.16 of the Hesperia Municipal Code

prohibiting additional types of cannabis activities and relating to regulations of M-Type 9 Non-Storefront Retailer licenses of businesses engaging in non-storefront medical cannabis delivery only services; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, commercial cannabis operations with valid existing permits are allowed to continue operating until the expiration of the permit, and upon expiration of the permit the permit shall not be renewed; and

WHEREAS, 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 the adoption of this Ordinance will not have an effect on the environment since it is prohibitory in nature only.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS.

SECTION 1. All of the above recitals are true and correct and incorporated herein.

SECTION 2. AMENDMENTS TO THE HESPERIA MUNICIPAL CODE

Certain provisions of the Hesperia Municipal Code relating to cannabis operations are hereby amended as set forth in Exhibit A, attached hereto and incorporated by this reference.

SECTION 3. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. CEQA COMPLIANCE

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.

SECTION 5. EFFECTIVENESS OF ORDINANCE

The Mayor shall sign, and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause this Ordinance, or a summary thereof, to be published in a manner as prescribed by law. This Ordinance shall become effective 30 days after its adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this _____ day of _____ 2024.

Larry Bird, Mayor

ATTEST:

Erin Baum, Assistant City Clerk