

# City of Hesperia

## STAFF REPORT



06

**DATE:** March 21, 2017

**TO:** Mayor and Council Members

**FROM:** Nils Bentsen, City Manager

**BY:** Eric L. Dunn, City Attorney

**SUBJECT:** Repeal of Hesperia Municipal Code Section 16.16.072 relating to “Residential care facilities, group homes, and sex offender residency”

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### RECOMMENDED ACTION

It is recommended that the City Council adopt Urgency Ordinance No. 2017-06, an urgency ordinance of the City Council of the City of Hesperia, California, repealing Hesperia Municipal Code Section 16.16.072, “Residential care facilities, group homes, and sex offender residency”

### BACKGROUND

On or about May 5, 2016, a lawsuit, entitled *Victor Valley Family Resource Center, et al. v. City of Hesperia, et al*, Case No 5:16-CV-00903, was filed against the City of Hesperia in the United State District Court – Central District (“VVFRC Case”). The plaintiffs in the VVFRC Case allege that Hesperia Municipal Code Section 16.16.072, “Residential care facilities, group homes, and sex offender residency” (“Group Home Ordinance”) violated State and federal laws.

On July 1, 2016, the Court issued a preliminary injunction preventing enforcement of the Group Home Ordinance, and questioning the constitutionality of the Group Home Ordinance. Since that time, the plaintiffs have expanded the number of potential plaintiffs and have moved to make the VVFRC Case a class action.

Regardless of whether or not the Group Home Ordinances violates State or federal law, the legal costs of continuing to defend the VVFRC Case could be so substantial that such costs would be to the detriment of public peace, health, and safety of City residents, because the City’s ability to fund public, health, and safety-related services such as police, fire, building & safety enforcement, code enforcement, and other enforcement activities would be detrimentally affected.

If adopted, this urgency ordinance would immediately repeal the Group Home Ordinance and, therefore, result in the mooted of a significant portion of the allegations in the VVFRC Case. This could result in substantial savings to the City in terms of litigation costs.

Therefore, the City Council, in the interest of preserving the fiscal stability of the City of Hesperia, is asked to adopt this urgency ordinance that repeals the Group Home Ordinance.

## **FISCAL IMPACT**

If the City Council does not adopt this urgency ordinance, then the ongoing costs of litigation will continue to increase. If the City Council does adopt this urgency ordinance, then it is anticipated that the costs of litigation will go down; however, estimating those costs are difficult due to the uncertainty of potentially litigating the remaining issues.

## **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

## **ATTACHMENT(S)**

1. Ordinance No. 2017-06: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, REPEALING HESPERIA MUNICIPAL CODE SECTION 16.16.072, "RESIDENTIAL CARE FACILITIES, GROUP HOMES, AND SEX OFFENDER RESIDENCY"