

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”**

WHEREAS, 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 States District Court – Central District (“VVFRC Case”);

WHEREAS, the plaintiffs in the VVFRC Case, among other claims, 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;

WHEREAS, the City of Hesperia takes a contrary position from the plaintiffs in the VVFRC Case and, on that basis, has defended against the plaintiff’s claims;

WHEREAS, on July 1, 2016, the Court issued a preliminary injunction preventing enforcement of the Group Home Ordinance, and questioning the constitutionality of the Ordinance;

WHEREAS, regardless of whether or not the Group Home Ordinance violates State or federal law, the City of Hesperia estimates that its legal costs for defending the VVFRC Case could be so substantial that such costs would be to the detriment of public peace, health, and safety of its 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;

WHEREAS, the City Council, in the interest of preserving the fiscal stability of the City of Hesperia, now desires to adopt this Urgency Ordinance repealing the Group Home Ordinance for the purposes of avoiding costly litigation.

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. This Urgency Ordinance is enacted pursuant to the authority conferred upon the City Council of the City of Hesperia by Government Code Sections 36934 and 36937 and shall be in full force and effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council as if and to the same extent that such ordinance had been adopted pursuant to each of the individual sections set forth hereinabove. **This Urgency Ordinance shall take effect immediately upon adoption and shall become operative on March 21, 2017.**

SECTION 3. Urgency Findings. That the adoption of this Urgency Ordinance is necessary for the immediate preservation of the public peace, health, or safety, as those terms are defined in Government Code Section 36937(b), in at least the following respects: the City anticipates that the

costs of litigating the VVFCRC Case may be such that they would be detrimental to the fiscal stability of the City. This could result in the public peace, health, and safety being detrimentally affected, because the City will be less able to provide services such as police, fire, building & safety enforcement, code enforcement, and other enforcement activities. Accordingly, this ordinance shall take effect immediately upon adoption.

SECTION 4. Hesperia Municipal Code Section 16.16.072, “Residential care Facilities, group homes, and sex offender residency,” is hereby repealed in its entirety.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance 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 remaining sections, subsections, sentences, clauses, phrase, or portions of this ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

SECTION 6. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this 21st day of March, 2017.

Russ Blewett, Mayor Pro Tem

ATTEST:

Melinda Sayre, City Clerk

APPROVED AS TO FORM

Eric Dunn, City Attorney