

ATTACHMENT 2

EXHIBIT "A"

Section 16.08.513 (Medical marijuana dispensary) of Chapter 16.08 (Definitions) of Title 16 (Development Code) of the Hesperia Municipal Code is hereby repealed and deleted in its entirety.

Section 16.16.073 (Medical marijuana dispensary) of Article III (Additional Uses) of Chapter 16.16 (Land Use Designations) of Title 16 (Development Code) of the Hesperia Municipal Code is hereby repealed and deleted in its entirety.

ARTICLE XIV (Cannabis Related Uses and Prohibited Activities) is hereby added to Chapter 16.16 of Title 16 of the Hesperia Development Code:

Article XIV. Cannabis Related Uses and Prohibited Activities

Sec. 16.16.440 - Purpose and Intent

Sec. 16.16.445 - Definitions

Sec. 16.16.450 - Prohibition of Non-Medical Cannabis Commercial Activities

Sec. 16.16.455 - Personal Cultivation of Cannabis

Sec. 16.16.460 - Prohibition of Medical Cannabis Commercial Activities

Sec. 16.16.465 - Delivery of Medical Cannabis

Sec. 16.16.470 - Conditions for Establishment and Operation of a Delivery Dispensary

Sec. 16.16.475 - Industrial Hemp

Sec. 16.16.440 - Purpose and Intent

- A. In order to preserve public health, safety and welfare of the residents and businesses within the City, the declared purpose of this article is to prohibit all cannabis-related businesses, activities and uses (unless local control is otherwise preempted by state law), with a limited exception for medical cannabis deliveries and personal indoor cannabis cultivation, as provided for herein.
- B. This article is not intended to interfere with a patient's right to obtain medical cannabis, as provided for in California Health & Safety Code Section 11362.5. This article is not intended to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

Sec. 16.16.445 - Definitions

The definition of all terms used in this Article shall be as defined below and as defined by Chapter 16.08 (with this Section taking precedence over Chapter 16.08 in the event of conflict). Any ambiguity in the definitions used herein shall be resolved in favor of the City's understanding of the term.

"Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

"Applicant," (consistent with exemptions provided by Section 19319 of the Business and Professions Code), means the following:

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(1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

"Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.

"Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; 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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code."

"Cannabis accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

"Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

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

"Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

"Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, labeling, distribution, delivery or sale of cannabis or a cannabis product; except, as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers; and, as applicable, except as set forth in Section 16.16.455 (Personal Cultivation of Cannabis) of this Article XIV.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation site" means a facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

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“Delivery” means the commercial transfer of cannabis or cannabis products from a dispensary; in the case of delivery of medical cannabis or medical cannabis products, the commercial transfer of cannabis or cannabis products from a dispensary is up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under state law, that enables customers (or in the case of medical cannabis or medical cannabis products, qualified patients or primary caregivers) to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

“Delivery dispensary” means a dispensary, with a permanent fixed location within the City, limited to retail sales of medical cannabis, or medical cannabis products, occurring exclusively through delivery. All retail sales are prohibited at the physical location of the delivery dispensary.

“Director” means the City of Hesperia Director of Development Services, and includes his/her designee(s).

“Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization under the provisions of this Article, cannabis and cannabis products as part of a retail sale.

“Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a dispensary.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for commercial cannabis activities.

“Distributor” means a person licensed to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

“Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

“Identification card” means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of cannabis.

“Identification program” means the universal identification certificate program for commercial medical cannabis activity authorized by Chapter 3.5 (Medical Cannabis Regulation and Safety Act) of Division 8 of the Business and Professions Code.

“Industrial hemp” means a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

“Licensee” means a person issued a state license under Chapter 3.5 (Medical Cannabis Regulation and Safety Act) of Division 8 (Special Business Regulations) of the Business and Professions Code, or Division 10 (Marijuana) of the Business and Profession Code, to engage in commercial cannabis activity.

“Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license.

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“Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

“Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as described in the term “manufacturing site” as defined herein, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

“Marijuana” has the same definition as “cannabis” provided in this Article.

“Medical cannabis” or “medical cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.), and the Medical Marijuana Regulation and Safety Act of 2015. For the purposes of this article, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

“Permit,” “local license,” or “local permit” means an official document granted by the City of Hesperia that specifically authorizes a person to conduct commercial cannabis activity in the City.

“Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Article 2.5 (Medical Marijuana Program), Chapter 6, Division 10 of the Health and Safety Code, and as may be amended.

“Place of worship” means an establishment which has the principal purpose of religious worship (e.g., church, synagogue, mosque, temple)

“Primary Caregiver” has the same meaning as the term “primary caregiver” is defined in Section 11362.7 of the Health and Safety Code, and as may be amended, and is subject to the limitations of Section 11362.7(e) of the Health and Safety Code, as may be amended, which provides that a “primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.”

“Private residence” has the same meaning as the term is defined in Section 11362.2(b)(5) of the Health and Safety Code, and as may be amended, which provides that private residence “means a house, an apartment unit, a mobile home, or other similar dwelling.”

“Qualified patient” has the same meaning as that term is defined in Health and Safety Code section 11362.7, and as may be amended, and which “means a person who is entitled to the protections of Section 11362.5 of the Health and Safety Code, but who does not necessarily have an identification card.”

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“State license,” “license,” or “registration” means a state license issued pursuant to Chapter 3.5 (Medical Cannabis Regulation and Safety Act) of Division 8 (Special Business Regulations) of the Business and Professions Code, or Division 10 (Marijuana) of the Business and Professions Code.

“Testing laboratory” means the premises where tests are performed on cannabis or cannabis products and that hold a valid certificate of accreditation.

“Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

“Transport” means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized under state law.

“Transporter” means a permitted person issued a state license by the bureau to transport cannabis or cannabis products in an amount above a threshold determined by the bureau between permitted facilities that have been issued a state license pursuant to state law.

Sec. 16.16.450 - Prohibition of Non-Medical Commercial Cannabis Activities

- A. All non-medical commercial cannabis activities (including non-profit operations) within the City are prohibited, including but not limited to the state license classifications listed below as provided for in Business and Professions Code § 26050:

(1)A-Type 1—Cultivation; Specialty outdoor; Small.

(2)A-Type 1A—Cultivation; Specialty indoor; Small.

(3)A-Type 1B—Cultivation; Specialty mixed-light; Small.

(4)A-Type 1C—Cultivation; Specialty cottage; Small.

(5)A-Type 2—Cultivation; Outdoor; Small.

(6)A-Type 2A—Cultivation; Indoor; Small.

(7)A-Type 2B—Cultivation; Mixed-light; Small.

(8)A-Type 3—Cultivation; Outdoor; Medium.

(9)A-Type 3A—Cultivation; Indoor; Medium.

(10)A-Type 3B—Cultivation; Mixed-light; Medium.

(11)A-Type 4—Cultivation; Nursery.

(12)A-Type 5—Cultivation; Outdoor; Large.

(13)A-Type 5A—Cultivation; Indoor; Large.

(14)A-Type 5B—Cultivation; Mixed-light; Large.

(15)A-Type 6—Manufacturer 1.

(16)A-Type 7—Manufacturer 2.

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(17)A-Type 8—Testing laboratory.

(18)A-Type 9 – Non-Storefront Retailer.

(19)A-Type 10—Retailer.

(29)A-Type 11—Distributor.

- B. The prohibition provided by this section includes any activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of non-medical cannabis commercial activities, or similar operations (including non-profit, collective or cooperative operations).

Sec. 16.16.455 - Personal Cultivation of Cannabis

Individuals twenty-one (21) years of age or older desiring to possess, plant, cultivate, harvest, dry, or process not more than six (6) living cannabis plants and possess the cannabis produced by the plants (as authorized by Section 11362.1 of the Health and Safety Code, and as may be amended from time to time) shall comply with the following reasonable regulations:

- A. Outdoor cultivation of cannabis is expressly prohibited in all zoning districts of the City.
- B. The six (6) living plants and any cannabis produced by the plants shall be planted, cultivated, harvested, dried, and processed within a private residence.
- C. The six (6) living plants and any cannabis produced by the plants in excess of 28.5 grams shall be kept within a locked room within the person's private residence, or be kept within an enclosed locked structure on, or within, the person's private residence. "Enclosed locked structure" means a structure that:
1. Does not allow for the visibility of the interior from the outside;
 2. Is secured with locks;
 3. Is completely surrounded on all sides by a wall or other barrier; and
 4. Is roofed or otherwise secured from entry.
- D. Enclosed locked structures may include greenhouses and accessory buildings meeting the requirements contained in this Section.
- E. Persons possessing, planting, cultivating, harvesting, drying, or processing not more than six (6) living cannabis plants and possessing the cannabis produced by the plants pursuant to this Section shall register with the Director, provide information on forms provided by the Director, and pay a fee as approved by City Council resolution; said registration shall be renewed with the City annually. Consistent with the intent of this Article, the Director is authorized to clarify and/or supplement in writing these procedures.
- F. If the registrant is not the property owner, the registration required pursuant to Paragraph E shall include written and notarized permission from the owner of the private residence; said permission shall be notarized within 30 days of the date the registration is submitted to the City.

Sec. 16.16.460 - Prohibition of Medical Commercial Cannabis Activities

- A. All medical commercial cannabis activities (including non-profit operations) within the City are prohibited, including but not limited to the state license classifications listed below as provided for in Business and Professions Code § 19300.7 (notwithstanding the limited exemption provided in

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Section 16.16.465 for a M-Type 10 (Retailer) license in conjunction with a valid and current delivery dispensary permit):

- (1)M-Type 1—Cultivation; Specialty outdoor; Small.
- (2)M-Type 1A—Cultivation; Specialty indoor; Small.
- (3)M-Type 1B—Cultivation; Specialty mixed-light; Small.
- (4)M-Type 1C—Cultivation; Specialty cottage; Small.
- (5)M-Type 2—Cultivation; Outdoor; Small.
- (6)M-Type 2A—Cultivation; Indoor; Small.
- (7)M-Type 2B—Cultivation; Mixed-light; Small.
- (8)M-Type 3—Cultivation; Outdoor; Medium.
- (9)M-Type 3A—Cultivation; Indoor; Medium.
- (10)M-Type 3B—Cultivation; Mixed-light; Medium.
- (11)M-Type 4—Cultivation; Nursery.
- (12)M-Type 5—Cultivation; Outdoor; Large.
- (13)M-Type 5A—Cultivation; Indoor; Large.
- (14)M-Type 5B—Cultivation; Mixed-light; Large.
- (15)M-Type 6—Manufacturer 1.
- (16)M-Type 7—Manufacturer 2.
- (17)M-Type 8—Testing laboratory.
- (18)M-Type 10 – Retailer.
- (19)M-Type 11—Distributor.
- (20)M-Type 12—Microbusiness.

- B. This prohibition provided by this section includes any activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of medical commercial cannabis activities, or similar operations (including non-profit, collective or cooperative operations), including, but not limited to, Type 1C, or “specialty cottage,” cultivator license types as provided for in Business and Professions Code § 19332(g)(4).
- C. The prohibition provided by this section includes medical cannabis collectives and cooperatives that operate pursuant to Health and Safety Code § 11362.775, the Compassionate Use Act, the Medical Marijuana Program Act, or otherwise.

Sec. 16.16.465 - Delivery of Medical Cannabis

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- A. The delivery of medical cannabis within the City to qualified patients or persons with an identification card, in accordance with a doctor's recommendation, is prohibited except for as allowed by this section.
- B. The establishment and operation of a medical cannabis delivery service with a permanent fixed location within the City, under state license M- Type 9 (Non-Storefront Retailer), as provided for in Business and Professions Code § 19300.7(n), is permitted subject to issuance by the City of a regulatory permit authorizing a delivery dispensary, as provided for in Title 5 ("Business Licenses and Regulations"), and the continued maintenance in good standing of such regulatory permit.

Sec. 16.16.470 - Conditions for Establishment and Operation of a Delivery Dispensary

The establishment and operation of a delivery dispensary is subject to the following conditions:

- (1) A delivery dispensary shall only be permitted within the General Industrial (G-I) zone district or the Limited Manufacturing (I-1) or General Manufacturing (I-2) General Plan designations.
- (2) A delivery dispensary shall be permitted within the Commercial Industrial Business Park (CIBP) zone district, and only within the area bounded by Smoke Tree Street, "I" Avenue, Juniper Street and Santa Fe Avenue East, and subject to the distance restrictions defined in this section.
- (3) The maximum floor area of any delivery dispensary shall be 10,000 square feet.
- (4) A delivery dispensary shall be located at least 600 feet from any residence, any residential or agricultural zone, any place of worship, school, park, playground, day care center or other location where children regularly congregate.
- (5) A delivery dispensary must be located at least 600 feet from any adult business, liquor store, hookah lounge, massage facility, or residential care facility.
- (6) The distance between any delivery dispensary and any residential or agricultural zone, any place of worship, school, park, playground, day care center, or other location where children regularly congregate, shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the delivery dispensary office to the closest property line of the residential or agricultural zone, any place of worship, school, park, playground, day care center or other location where children regularly congregate.
- (7) Where the 600-foot distance as measured from any of the uses listed above, except for a school, day care center or youth center, and the measurement crosses a property line, the entire property and any structures located therein, are deemed eligible for the location of a delivery service.
- (8) The delivery dispensary shall be operated in accordance with all City codes, as well as the Medical Cannabis Regulation and Safety Act (including but not limited to Section 19340 of the Business and Professions Code), the Compassionate Use Act, and the Medical Marijuana Program Act.

Sec. 16.16.475 - Industrial Hemp

The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this Article or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.