

**ATTACHMENT 7**

**ORDINANCE NO. 2017-22**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING ORDINANCE NO 2017-16, AMENDING CHAPTER 5.50 OF THE HESPERIA MUNICIPAL CODE REGULATING THE COMMERCIAL DISPENSING OF MARIJUANA WITHIN THE CITY OF HESPERIA.**

**WHEREAS**, The City of Hesperia has the authority and responsibility to regulate businesses operating within the City to protect the public health, safety and welfare; and

**WHEREAS**, On November 8, 2016 the State of California passed Proposition 64, legalizing the adult and medical use of marijuana, creating a means for the commercial production and distribution of marijuana, and allowing local control of land use, business licensing and taxation of medical and adult marijuana businesses; and

**WHEREAS**, on June 27, 2017 the State of California passed Senate Bill 94, integrating the regulation of Proposition 64 and existing medical marijuana law contained in the Compassionate Use Act, Assembly Bill 243, Senate Bill 643, and Assembly Bill 266; and

**WHEREAS**, Senate Bill 94 authorizes local jurisdictions to exercise regulations on marijuana businesses, whether adult or medicinal, engage in the collection of taxes related to those businesses, and exert local control over the manner in which the businesses operate; and

**WHEREAS**, on September 19, 2017, the City Council adopted Ordinance 2017-16, allowing commercial cannabis activity limited to license type M-Type 10, Retailer, delivery only dispensaries, and prohibiting all other activities; and

**WHEREAS**, in December 2017, the State of California created emergency regulations related to commercial cannabis activity, and created a new license type related to Non-Storefront delivery only cannabis businesses commonly known as M-Type 9, Non-Storefront Retailer; and

**WHEREAS**, the City Council desires to allow commercial cannabis activity, limited to delivery only services to medical patients; and

**WHEREAS**, the new license type more closely aligns with the goals of the City Council; and

**WHEREAS**, The City Council of the City of Hesperia desires to exercise its right to regulate marijuana businesses within the City; and

**WHEREAS**, the City Council of Hesperia now desires to expressly prohibit (to the fullest extent allowed under state law) any and all commercial cannabis activity otherwise allowed under AUMA and/or under any and all state licenses issued pursuant to the 20 different categories of state AUMA licenses described above (and as may be amended); and

**WHEREAS**, The City Council declares that the following marijuana license types are hereby prohibited within the City of Hesperia:

- (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.
  - (17)A-Type 8—Testing laboratory.
  - (18)A-Type 9—Non-Storefront Retailer.
  - (18)A-Type 10—Retailer.
  - (19)A-Type 11—Distributor.
  - (20)A-Type 12—Microbusiness.
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- (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.

**WHEREAS**, The Medical Marijuana License Type = M-Type 9, Non-Storefront Retailer; shall be allowed to operate within the City of Hesperia, subject to all regulations herein, the regulations contained in Ordinance 2017-15 (as adopted or amended), the Hesperia Municipal Code, and State Law governing such license type; and

**WHEREAS**, The City Council desires to adopt regulations related to the allowed business type, M-Type 9 – Non-Storefront Retailer; and

**WHEREAS**, Title 5 of the Hesperia Municipal Code is amended as set forth in "Exhibit C"; and

**WHEREAS**, On December 19, 2017 the City Council of the City of Hesperia conducted a duly noticed Public Hearing as required by Government Code Section 50022.3 and concluded said hearing on that date; and

**WHEREAS,** All legal prerequisites to the adoption of this Ordinance have occurred.

**NOW THEREFORE,** THE HESPERIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. All of the facts set forth in the forgoing recitals are true, correct and are adopted as findings.


Section 2. Chapter 5.50 of the Hesperia Municipal Code is hereby amended as set forth in "Exhibit C".

Section 3. This Ordinance shall take effect thirty (30) days after its second reading and adoption.

Section 4. The City Council of the City of Hesperia hereby declares that should any provision, section, paragraph, sentence, or word of this Ordinance hereby adopted be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words shall remain in full force and effect.

Section 5. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution 93-78.

**ADOPTED AND APPROVED** this 16<sup>th</sup> day of January, 2018.

  
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Bill Holland, Mayor Pro Tem

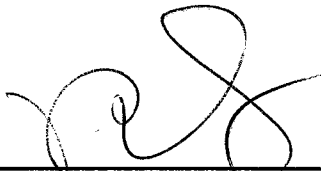
  
\_\_\_\_\_  
ATTEST  
Melinda Sayre, City Clerk

Exhibit C

**5.50.040 – Delivery Dispensary Permit**

- A. Conditions necessary for the continuing validity of any and all permits issued for the operation of a delivery dispensary include:
  - 1. Maintaining a valid State License of the type: M-Type 9 Non-Storefront Retailer

**STATE OF CALIFORNIA )  
COUNTY OF SAN BERNARDINO )  
CITY OF HESPERIA )**

I, Melinda Sayre, City Clerk of the City of Hesperia, California, do hereby certify that Ordinance No. 2017-22 was introduced at a Regular Meeting of the City of Hesperia City Council held on the 19<sup>th</sup> day of December, 2017 by the following vote to wit:

AYES: Swanson, Russ, Blewett, Holland  
NOES: Bird  
ABSTAIN: None  
ABSENT: None

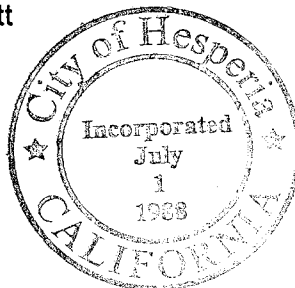


Melinda Sayre  
City Clerk

Seal

I, Melinda Sayre, City Clerk of the City of Hesperia, California, do hereby certify that Ordinance No. 2017-22 was duly and regularly adopted at a Regular Meeting of the City of Hesperia City Council held on the 16<sup>th</sup> day of January, 2018 by the following vote to wit:

AYES: Russ, Holland, Swanson  
NOES: Bird  
ABSTAIN: None  
ABSENT: Blewett

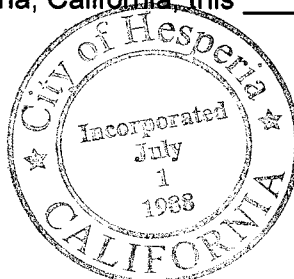


Melinda Sayre  
City Clerk

Seal

I, Melinda Sayre, City Clerk of the City of Hesperia, California, do hereby certify that the foregoing Ordinance No. 2017-22 is a full, true and correct copy of that now in file in this office.

**IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE SEAL OF THE City of Hesperia, California, this \_\_\_\_\_ day of \_\_\_\_\_.**



Melinda Sayre  
City Clerk

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