

ORDINANCE NO. 2018-01

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 CANNABIS ACTIVITIES WITHIN THE CITY OF HESPERIA AND RESCINDING ORDINANCE NO. 2017-22.

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, in 1996 the voters of the State of California passed Proposition 215 (the Compassionate Use Act), which decriminalized medical cannabis; and

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

WHEREAS, on June 27, 2017 the State of California passed Senate Bill 94, integrating the regulation of Proposition 64 and existing medical cannabis 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 cannabis 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 December 7, 2017, the State of California issued emergency regulations related to commercial cannabis activity, and created several new license types; and

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

WHEREAS, the license type M-Type 9 Non-Storefront Retailer more closely aligns with the goals of the City Council; and

WHEREAS, on September 19, 2017, the City Council adopted Ordinance No. 2017-16, allowing and regulating commercial cannabis activity limited to State License type M-Type 10 Retailer for deliveries only; and

WHEREAS, on December 19, 2017 the City Council adopted Ordinance No. 2017-22, amending Ordinance No. 2017-16, modifying the license type allowed within the City from M-Type 10 Retailer to the license type M-Type 9 Non-Storefront Retailer, and continuing to prohibit all others; and

WHEREAS, on March 6, 2018, the City Council held a duly noticed public hearing and recommended approval of the changes contained within the attached Exhibit "A"; and

WHEREAS, the City Council desires to continue to prohibit all other license types, including any newly created license types within the State's emergency regulations, exclusive of M-Type 9 Non-Storefront Retailer; and

WHEREAS, The City Council of the City of Hesperia desires to exercise its right to regulate cannabis 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 the Adult Use of Marijuana Act (AUMA) or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and/or under any and all state licenses issued pursuant to the different categories of state licenses described below (and as may be amended), with the exception of solely M-Type 9 Non-Storefront Retailers; and

WHEREAS, The City Council declares that the following cannabis 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.
- (19)A-Type 10—Retailer.
- (20)A-Type 11—Distributor.
- (21)A-Type 12—Microbusiness.
- (22)A-Type 13-Distributor, Transport Only.
- (23)A-Type 14-Cannabis Event Organizer.
- (24)A-Type Processor Only Cultivation
- (25)A-Type N – Manufacturer
- (26)A-Type P – Manufacturer
- (27)A-Type S - Manufacturer

- (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.
- (21)M-Type 13-Distributor, Transport Only.
- (22)M-Type 14-Cannabis Event Organizer.
- (23)M-Type Processor-Only Cultivation
- (24)M-Type N – Manufacturer
- (25)M-Type P – Manufacturer
- (26)M-Type S - Manufacturer

WHEREAS, The Medical Cannabis 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 regulations contained in Ordinance 2017-16 (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, since adoption, several regulatory changes are required in order to further the cannabis regulatory program, including insurance requirements, application requirements, fingerprinting requirements, and security requirements; and

WHEREAS, The regulatory changes will further the Council’s goal of allowing and regulating limited commercial cannabis activity within the City; and

WHEREAS, Title 5 of the Hesperia Municipal Code is amended as set forth in Exhibit “A”; and

WHEREAS, On March 6, 2018, 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. Ordinance No. 2017-22 is hereby rescinded upon the adoption and effective date of this Ordinance.

Section 3. Chapter 5.50 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit “A”.

Section 5. This Ordinance shall take effect thirty (30) days after its second reading and adoption.

Section 6. 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 7. 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 20th day of March, 2018.

Russ Blewett, Mayor

ATTEST _____
Melinda Sayre-Castro, City Clerk

APPROVED AS TO FORM:

Eric Dunn, City Attorney