

## **ORDINANCE NO. 2018-02**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, AMENDING ORDINANCE NO 2017-15, AMENDING CHAPTER 16.16 OF THE HESPERIA MUNICIPAL CODE, REGULATING CANNABIS ACTIVITIES 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**, 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 November 21, 2017, the City Council adopted Ordinance No. 2017-15, allowing commercial cannabis activity, limited to certain zones within the City, and limited to State License type 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 adopted a map, as Exhibit "B" of Ordinance No. 2017-15, which identifies specific zones of the City where commercial cannabis businesses can locate; and

**WHEREAS**, Ordinance No. 2017-15 requires that cannabis businesses locate at least 600 feet from sensitive uses, including residences; and

**WHEREAS**, Within the zones which allow cannabis businesses, there also exist numerous residences, which were in existence prior to the area being zoned as non-residential; and

**WHEREAS**, Creating a 600 foot buffer around the existing residences causes areas of the zones which were intended to allow cannabis businesses to be ineligible; and

**WHEREAS**, The revision to the distance requirement related to existing residences within the cannabis zone will further the Council's goal of allowing and regulating limited commercial cannabis activity within the City; and

**WHEREAS**, On February 8, 2018 the Planning Commission held a duly noticed Public Hearing pertaining to Resolution No. PC-2018-01, which recommended the removal of the 600 foot

requirement for residences located within the zones where cannabis businesses are allowed and concluded said hearing on that date; and

**WHEREAS**, on February 8, 2018, the Planning Commission denied Resolution No. PC-2018-01; 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 approved the removal of the distance requirement from legal non-conforming residences within the commercial cannabis zone**; and

**WHEREAS**, Title 16 of the Hesperia Municipal Code is amended as set forth in Exhibit "B", 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 16.16 of the Hesperia Municipal Code is hereby amended as set forth in Exhibit "B".

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 20<sup>th</sup> day of March, 2018.

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Russ Blewett, Mayor

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

APPROVED AS TO FORM:

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Eric Dunn, City Attorney