

## Attachment 2

### Exhibit A

#### Title 5 - BUSINESS LICENSES AND REGULATIONS

##### Chapter 5.04 - BUSINESS LICENSES GENERALLY

###### 5.04.010 - Purpose and authority.

The purpose of this chapter is to establish regulations that will protect the general public health, safety and welfare under the authority granted to governments by the Constitution of the State of California.

###### 5.04.020 - License required.

- A. Issuance of License Not Permission to Operate. The issuance of a license does not provide permission to operate unlawful business.
- B. License Issued in Error. Any license issued in error is invalid.
- C. License Fees Required. It is unlawful for any person to commence, transact, or operate any business within the City without first having procured a business license from the City and paying all fees as required by this title. It is unlawful for any person to operate with an expired, suspended, or revoked license at any time, or to violate or fail to comply with any provisions of this title.
- D. Use of License. The person named within the business license is hereby granted a license pursuant to the provisions of this chapter to engage in, carry on, or conduct within the City, the business, trade, calling, profession, exhibition, or occupation described by the issued license during the time period indicated on the license.
- E. Licenses issued pursuant to Chapter 5.20 or 5.48 of this code shall also be subject to all void, denial, or revocation procedures within those specified chapters.
- F. No license shall be issued until such time that all other entitlements, permits, and all other local, state, and federal requirements have been met. The City shall give notice of denial or revocation of a license application by first class mail, return receipt requested, to the applicant at the applicant's address listed in the application.
- G. Verification may be required as requested by City that the licensee is subject to or exempt from licensing by the State of California (except as provided for by this chapter or other regulatory agency). Issuance of a City business license shall not be deemed to waive any other applicable state, local, or federal licensing requirements.

###### 5.04.030 - Exemptions.

A. All persons who apply for a business license pursuant to this title for the sole purpose of conducting, managing, or carrying on a charitable activity from which profit is neither directly nor indirectly derived are exempt from the business license fee. Verification of registration as a nonprofit entity may be required by the City.

B. Any public utility operating in the City that is required to make payments under a franchise agreement with the City is exempt from the business license fees.

###### 5.04.040 – Application.

Every person desiring to obtain a business license shall submit a complete business license application to the City, together with all required fees and supporting documentation.

- A. An application for a license under this title shall require the following information:
  - 1. Business start date.
  - 2. Business name.
  - 3. Business address;
  - 4. Business mailing address.

5. Business telephone number.
6. Federal employer identification number (if business is a partnership or corporation), or owner's name and social security number (for all others).
7. Type of business activity.
8. Ownership Type. Sole proprietorship, partnership, or corporation. If sole proprietorship, owners full name shall be included.
9. A declaration under penalty of perjury that the foregoing is, to the best of applicant's knowledge and belief, true and correct, and that applicant has read the application and understands all the conditions stated therein.
10. Any other supplemental information requested by City.

- B. Information provided in the application will become a matter of public record and will be subject to disclosure, with the exception of Social Security or federal employer identification numbers.

#### 5.04.050 - Contents of License Application.

The City shall issue to any person having met the requirements of this title a license that shall contain the following:

- A. The name of the person to whom the license is issued.
- B. The name and address of the business.
- C. The expiration date of the license.
- D. The type of business for which the license is issued.
- E. The name of the business.

#### 5.04.060 - Investigation fee, license fee, renewal fee, and late fee.

A. The investigation fees, license fees, renewal fees, and late fees for this title shall be as adopted by city council resolution and contained within the adopted City Fee Schedule:

- B. Late Fees.
  1. Any business license not secured within thirty (30) days of notification by the City shall be assessed a late payment penalty as adopted within the City Fee Schedule.
  2. Any business license not secured within forty-five (45) days of notification by the City shall be assessed a second late payment penalty, as adopted within the City Fee Schedule.

#### 5.04.070 –Lapse of License.

- A. Businesses Located Within City Limits. Should a license lapse during any time period after issuance, the licensee shall be responsible, before issuance of a renewal or new license, for payment of all late fees, fines, and any administrative or civil penalties.
- B. Businesses Located Outside City Limits That Conduct Business Intermittently for Any Period of Time. Should the license be issued to a business that is not located within the City and that conducts business within the City intermittently, and that license lapses, the licensee shall be subject to the following:
  1. If less than one year has passed since the license expiration, the licensee shall be subject to all late fees and the renewal license fee in order to renew the license.
  2. If more than one year has passed since the license expiration, and there is no evidence that the licensee has been operating within the City without a valid license, the licensee shall receive a new license and pay the new license fee, the license number shall not change.

3. If there is evidence that the licensee has operated within the City without a valid license at any time, all fees and any fines or penalties shall apply.

C. Conducting of any business whatsoever within the City requires a City business license.

#### 5.04.080 - License fee debt to the City

The amount of any license fee imposed by this title and of any late penalty shall be deemed a debt to the City. Any person commencing or operating any business without having a license to do so shall be liable in an action by the City in any court of competent jurisdiction for the amount of the license fee imposed by this chapter with respect to such business.

#### 5.04.090 - Errors in issuance of licenses and license fees.

- A. Any license issued in error shall be invalid. No license issued in error entitles any person to conduct a prohibited business at the location for which the business license was issued.
- B. Any error in the amount of any license fee may be corrected by the City at any time. Failure to submit any additional due amounts on any license may result in the revocation of the license.
- C. No license fee paid under provisions of this title shall be refundable unless it is determined by the City that the fee was collected in error.
- D. The business license issued pursuant to the provisions of this title constitutes a receipt for the license fee paid and is a requirement, not a permit, to transact or carry on any business activity within the City. Payment of fees or possession of a license shall not exempt the holder from conforming with all other codes and ordinances adopted by the City and any other applicable state or federal laws.

#### 5.04.100 – License Not Transferable

No license issued to a business, owner, or location may be transferred to another business, owner, or location, except that a valid license holder operating within the City may move his/her place of business following the submission of a revised application showing the new address. A license issued for a new location is subject to the same review criteria as the original license, and may include additional zoning or operating requirements, including, but not limited to, a Certificate of Occupancy for the new location. Any license requiring a site investigation shall be subject to a site investigation fee. For businesses located outside of the City, but operating within the City, the operator shall notify the City of any change of mailing address in writing within 15 days of such change.

#### 5.04.110 - License renewal.

All business licenses must be renewed annually, subject to renewal fees. Applicants for a renewal license shall update the information on the renewal license form if any of the information has changed.

#### 5.04.120 - Posting of valid license.

All businesses shall display business licenses in the following manner:

- A. License holders conducting business at a fixed place of business in the City shall post the license in a conspicuous place on the business premises.
- B. License holders without a fixed place of business in the City shall keep the original license in his/her immediate possession while conducting business within the City.
- C. License holders with one or more vehicles operating in the City shall keep a copy of the original license in each vehicle.

#### 5.04.130 - Two or more businesses; branch or franchise establishments.

- A. Any person conducting two or more businesses shall be required to provide licenses for each business. Separate fees shall be charged for each business at the regular fee rate.
- B. Any business conducted with separate branches or franchise locations shall be licensed as if each branch or franchise were a separate business. The fee shall be computed for each branch or franchise establishment as a separate and independent business. Warehouses and distributing plants used in conjunction with and incidental to a business shall not be considered a separate place of business.

#### 5.04.140 –Revocation, Denial or Voiding of license.

- A. All businesses issued a license under the provisions of this title shall at all times be in compliance with all applicable laws of the City of Hesperia, the State of California, and the United States of America. Any business license may be revoked or denied by the City if it is determined that the license holder or applicant for a license:
  - 1. Violated any provision of any state or federal statute relating to the permitted activity; or
  - 2. Does not have all current and valid applicable local, state, and federal permits, or
  - 3. Within the last 36 months violated any provisions of Title 16 of the Hesperia Municipal Code related to illegal land use; or
  - 4. Committed any unlawful, false, fraudulent, deceptive, or dangerous act while conducting business that caused injury, or the licensee benefited from the unlawful act; or
  - 5. Conducts business in a manner that is detrimental to the peace, health, safety, and general welfare of the public; or
  - 6. Does not possess a valid driver's license issued by the state of California in the applicable class, if required for the operation of the business; or
  - 7. Has been convicted of more than two violations of any state laws pertaining to the operation of a motor vehicle in any calendar year, if the licensee operates a motor vehicle as a function of the licensed business;
  - 8. Employs a driver who does not have a valid taxicab driver's license if required.
  - 9. The failure to complete, file, and retain the records required by the Business & Professions Code related to pawnbrokers, and secondhand dealers.
  - 10. Committed or caused to be committed, any violation of, or failure to comply with, the mandatory conditions of the home occupation permit, if applicable;
- B. Licenses issued pursuant to Chapters 5.20. and 5.48 of this code shall be subject to this Section in addition to the revocation procedures within those specified chapters.
- C. No license shall be issued until such time that all other entitlements, permits, and all other local, state, and federal requirements have been met. The City shall give notice of denial or revocation of a license application by first class mail, return receipt requested, to the applicant at the applicant's address listed in the application.
- D. Any person denied a license, or whose license is revoked, may appeal the denial under the provisions specified in 5.04.150, below.
- E. The following businesses require a California Department of Justice clearance prior to the issuance or renewal of a business license. The City shall receive the results of the clearance.
  - 1. Massage facility owners who do not have CAMTC license
  - 2. Ice cream vendors
  - 3. Taxi cab, shuttle, and limo operators
  - 4. Commercial cannabis owners, applicants, and shareholders

5. Solicitors
  6. Peddlers
  7. Adult business operators
- F. In addition to Section A above, any license requiring a U.S. Department of Justice clearance is revoked effective upon notification to the licensee should the clearance reveal any of the following:
1. The applicant has been convicted of, or entered a plea of guilty or no contest to, a felony or any crime involving theft, embezzlement, or moral turpitude during the preceding 36 months, or is currently on probation, parole, or subject to incarceration as a result of such conviction; if the licensee is not an individual, the above information shall apply to any officer, director, manager, or member of the business, or any other person exercising control or management of the business.
  2. The person is required to register pursuant to Section 290 of the California Penal Code; and the license type applied for does not allow for any person required to register to receive a license.
  3. The person has been convicted of a crime involving soliciting for prostitution or narcotics, unless a period of not less than three years has elapsed since the date of conviction or the date of release from confinement for such offense, whichever is later;
  4. The person has a conviction or guilty/no contest plea of driving a motor vehicle recklessly or under the influence of a controlled substance or alcohol within the preceding three years, if a valid driver's license is required;
  5. The person has a conviction or guilty/no contest plea of more than two violations of any state law pertaining to the operation of a motor vehicle in any calendar year, if a valid driver's license is required;
  6. Conviction of any violation of state law pertaining to motor vehicles that led to property damage, great bodily harm, or injury, if a valid driver's license is required;
  7. The person has a conviction or a guilty/no contest plea of a felony charge within the last seven years which the City believes could be detrimental to the health, safety or welfare of the public, based on the type of license being applied for. In the event of a denial of a license the City will provide the applicant with a written explanation of the denial, sent by first class mail.
- G. Any application that is found to contain inaccurate, false, misleading, or fraudulent statements, or that omits material facts regarding the operation of the business, or the application was not accompanied by all required supporting documentation, shall void the license.
- H. Should a license become void, the City shall, within 10 business days, notify the licensee of such action in writing, first class postage pre-paid at the business mailing address listed on the application.
1. Any applicant who receives notification of a voided license may appeal such action following the appeal process in Section 5.04.150.
- I. Any person whose license is revoked may not reapply to operate any business within the City for one year from the date of revocation. Any person whose license is revoked based on failure to pass a background check pursuant to subsection B, above, may not reapply to operate any business within the City for three years from the date of revocation.

#### 5.04.150 – Appeals

Should any license be revoked, denied, or voided by the City, the licensee shall have the right to appeal the decision. The procedure to appeal shall be as follows:

- A. Prior to any revocation, denial or voiding of license, the City shall, by first class mail postage prepaid to the address given on the business license application as the mailing address, give the license holder ten days' notice of the City's intent to revoke such license and shall state the reasons for such revocation.
- B. Should the license holder desire to appear before the city council and appeal the revocation, the license holder shall submit the following, in writing, to the City Clerk within 15 days of the date on the notice of revocation
  - 1. The reason for the appeal, detailing why the license holder believes they are not in violation of law, or were not in violation of law at the time of notice by City of violation.
  - 2. The name of the business.
  - 3. The business license number.
  - 4. The name of the business owner(s).
  - 5. Contact information including mailing address and phone number.
  - 6. The non-refundable appeal fee as adopted by resolution of the city council.
- C. Upon receipt of a timely written appeal, the item shall be prepared for the city council, to be heard at a duly noticed public hearing not more than 60 days from the date of the appeal being filed.
- D. The City shall notify the license holder of the date, time, and location of the hearing, within 10 days of the hearing date.
- E. The filing of an appeal stays the action by the City until the city council makes a final decision.
- F. The license holder shall have the opportunity to present evidence to the city council at the public hearing regarding why the license should not be revoked. The council shall consider all relevant evidence. If the council finds good and sufficient cause for revocation, denial or voiding, the license shall be revoked. No refund of any license shall be made following revocation, denial or voiding. Revocation, denial or voiding of a license shall be effective upon action of the city council as herein described. The council's decision shall be in writing and shall articulate the council's findings and the factual basis thereof.
- G. Within 10 days of the hearing, the City shall, by first class, postage prepaid to the mailing address given on the business license application, notify the license holder of the council's decision. The decision shall make reference to Sections 1094.5 and 1094.6 of the Code of Civil Procedure.

#### 5.04.160 - Penalty for Violation

- A. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued, and shall be subject to all remedies and enforcement measures authorized by the Hesperia Municipal Code, Title 1.
- B. To the fullest extent allowed under state law, any person, whether as principal, employee, agent, partner, director, officer, stockholder, or trustee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and any conviction thereof shall be punishable of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.
- C. The violation of any of the provisions of this title is deemed a public nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. Violations of this title may be also be punishable in accordance with the provisions of Title 1 of this Code. Remedies are not exclusive of each other.

Chapter 5.06 - RESERVED

## Chapter 5.08 - BINGO

### 5.08.020 - License required.

No person other than an eligible organization may conduct bingo games. Eligible organizations shall not conduct bingo games without first having secured a license to do so from the City.

### 5.08.030 - License application.

- A. Applicants for a bingo license shall file a signed business license application with the City including all information required by Section 5.04.040. In addition to the information required by Section 5.04.040 the following information shall be provided:
  - 1. The dates, hours, and location where the bingo games will be operated. Each location requires a separate license.
  - 2. The name or names of any person having the management or supervision of the games.
- B. The application shall be accompanied by a copy of the tax-exempt status determination issued by the State Franchise Tax Board to the applicant organization showing the applicant organization is exempt under the provisions of Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(l) of the California Revenue and Taxation Code.
- C. The applicant shall submit with the application a declaration under penalty of perjury of a duly authorized officer or representative of the organization, which states that the applicant organization owns or leases, or has an agreement for use, the property on which the bingo games are to be held and that such property is used by the organization for an office or for purposes for which the organization is organized. The declaration shall also indicate that the proceeds of such games will only be used for charitable purposes, except as provided in this chapter.

### 5.08.040 - Investigation.

After receiving the application, the City shall refer the application to all relevant departments for investigation. The departments shall make reports of their findings, together with a recommendation as to whether or not the applicant should be granted a license.

### 5.08.050 - Operation of bingo games.

A bingo game shall be conducted only on property owned, leased, or has an agreement for use, by the eligible organization and used by it for an office or for performance of the purposes for which the organization is organized. The property owned or leased by the organization need not be used or leased exclusively by such organization. The bingo game shall be operated and staffed only by members of the licensed organization, who shall not receive a profit, wage, or salary from any bingo game. Only the organization licensed to conduct a bingo game shall operate the game or participate in the promotion, supervision, or any other phase of the game. Bingo games shall not be held on more than 10 days in each calendar month nor for more than 5 hours in any 24-hour period. No bingo shall be permitted between the hours of 2:00 a.m. and 6:00 a.m.

### 5.08.060 - Financial interest.

No person except the eligible organization licensed to conduct a bingo game shall hold a financial interest in the game.

### 5.08.070 - Profits.

- A. Nonprofit Organizations Under Revenue and Taxation Code Section 23701(d). All profits derived from a bingo game by organizations exempt from payment of the bank and corporation tax by Section 23701(d) of the California Revenue and Taxation Code shall be kept in a special fund or account and shall not be commingled with any other fund or account. Profits shall be used only for charitable purposes.

B. Other Licensed Organizations. With respect to other licensed organizations authorized to conduct bingo games, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds shall be used only for charitable purposes, except as follows:

1. Such proceeds may be used for prizes;
2. A portion of such proceeds, not to exceed 20% of the proceeds after the deduction for prizes, or two thousand dollars (\$2,000.00) per month, whichever is less, may be used for rental of property, overhead, and administrative expenses.

C. Records. Records required by this chapter shall be retained by the licensee for a period of three years. Licensee's records shall be available for inspection by the chief of police or City officials upon demand.

5.08.080 - Participation limited to those present.

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place where the bingo game is being conducted.

5.08.090 - Bingo game open to public.

All bingo games shall be open to the public, not just to the members of the licensed organization.

5.08.100 - Value of prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars (\$250.00) in cash or kind, or both, for each separate game.

5.08.110 - Minors prohibited from participation.

No minor shall be allowed to participate in any bingo game.

5.08.120 - Display of license.

Every licensee shall display the license issued by the City in a conspicuous place on the premises where the bingo games are conducted.

5.08.130 - License not transferable.

Each license issued hereunder shall be issued to an eligible organization and for a specific location and is not transferable from one organization or location to another.

## Chapter 5.16 - JUNK DEALERS, PAWNBROKERS, SECONDHAND DEALERS AND SALVAGE COLLECTORS

### 5.16.010 –Secondhand Dealer and Pawnbroker Permit Required.

- A. Each applicant for a junk dealer, second hand dealer, or salvage collector business license, along with a completed business license application and required fees, shall furnish to the City an unexpired, valid copy of their state-issued Secondhand Dealers Permit. This permit shall be furnished to the City upon original application for a business license, and at each renewal thereafter. Salvage collectors which sell only items eligible for California Redemption Value (CRV) items shall be exempt from the requirement to furnish a Secondhand Dealers Permit, but must still obtain a business license.
- B. Each applicant for a pawnbroker license, along with a completed business license application and required fees, shall furnish to the City an unexpired, valid copy of their state-issued Pawn Brokers Permit. This Permit shall be furnished to the City upon original application for a business license, and at each renewal thereafter.

### 5.16.020 - Inspection.

Every junk dealer, pawnbroker, secondhand dealer, and salvage collector (except CRV only) shall hold and keep exposed any property acquired by them in the course of their business for inspection on their business premises during business hours.

### 5.16.030 - Property.

Junk dealers shall hold all personal property received except automobile bodies until the expiration of three days after the submission of the daily report required by this chapter.

### 5.16.040 - Daily reports and purchase forms.

- A. Junk dealers, pawnbrokers, and secondhand dealers issued a business license under this chapter shall report to the California Pawn and Secondhand Dealer System (CAPPS), in a manner pursuant to Business and Professions Code Section 21628, as may be amended from time to time

## Chapter 5.20 - Massage Facilities and Massage Therapists.

### 5.20.010 Applicability; Exemptions.

- A. No person shall provide massage in the City of Hesperia unless he or she holds a valid massage therapist license issued by the California Massage Therapy Council pursuant to Section 4600 et seq. of the Business and Professions Code. Persons who are independently contracted by a massage facility to provide massage shall also obtain a business license.
- B. No person or entity shall operate a massage facility without first obtaining a massage facility business license hereunder.
- C. This chapter shall not apply to the following classes of individuals, and no license, other than a business license, shall be required of such persons while engaged in the performance of the duties of their respective professions:
  - 1. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the state of California, and persons working at the place of, business of, or under the supervision of, a licensed physician, surgeon, chiropractor, osteopath or physical therapist.
  - 2. Acupuncturists or acupressurists, who hold a valid license to practice their profession in the state of California.
  - 3. Trainers of scholastic, amateur, and semi-professional or professional athletes or teams, while providing training services for the school or team.

### 5.20.020 License Requirements – Massage Facility

- A. Every person operating a facility where massage services for compensation are provided shall obtain and maintain a valid City business license required by this chapter.
- B. An owner or operator of a massage facility shall notify the City of any rename, management change, or transfer of more than 5% of the business to another person.
- C. The City shall promptly reject as incomplete any application that does not meet all the requirements of this chapter, and shall notify the applicant in writing, by first class mail, postage prepaid, to the address supplied to the City by the applicant, of the deficiencies in the application.
- D. No application for renewal of a massage facility license shall be accepted earlier than 90 days prior to the expiration of an existing license.
- E. The owner and/or operator of a massage facility shall be responsible for the conduct of all employees or independent contractors working on the premises of the business. This provision also applies to owners and operators who lease or sublease space to independent contractors or to separate massage businesses.
- F. All massage facility licenses are nontransferable, both as to location and as to the person or entity holding a license.

### 5.20.030– Massage Facility License Application

- A. Any person desiring to obtain a permit to operate a massage facility shall file a complete application for a massage facility license with all required documentation under penalty of perjury.
- B. All applications for a massage facility license shall include:

1. A nonrefundable fee, as adopted in the City Fee Schedule.
2. All documents, including a site plan and floor plan, demonstrating compliance with Section 5.20.070, massage facilities operational requirements.
3. The following information:
  - a. The full name, any current or past aliases, for each individual, partner, corporate officer, director, or stockholder of applicant;
  - b. A copy of the unexpired driver's license or state issued identification for each individual, partner, corporate officer, director, or stockholder of applicant.
  - c. A valid LiveScan clearance issued by the Department of Justice (DOJ) prepared within the last 30 days for individual, partner, corporate officer, director, or stockholder of applicant.
    1. A massage facility where the owner is the only person employed by that business and certified by the CAMTC is not required to undergo criminal background checks. A massage practitioner or massage therapist shall maintain on the premises at all times evidence of their certification for review by local municipal officials.
  - d. The street address where the licensed activities will be conducted.
  - e. Copies of CAMTC certifications for all employees or independent contractors who will be operating at the location, including if they are operating as separate business entities.

#### 5.20.040- Massage Facility or Practitioner License Revocation

- A. The City shall revoke a license or permit issued to a massage facility or a massage practitioner if any of the following occur:
  1. Violations of California Business and Professions Code Sections 4600 thru 4620, or violations of the provisions of this chapter, occur on the business premises. Violations shall be demonstrated by a preponderance of the evidence.
  2. The massage facility applicant or permit holder has provided materially false information, including but not limited to any inaccurate statement, or misrepresentation, or omission, of a material fact made in the application or in any document or statement submitted in support thereof.
  3. The applicant or permit holder has not met the requirements of this chapter and applicable laws.
  4. The applicant or permit holder employs massage technicians who do not hold a valid certification from the CAMTC.
  5. The applicant or permit holder has, within the 10 years immediately preceding the date of the application, been convicted of any of the offenses set forth in this chapter or has, within the same time frame, been convicted of any offense in another state which, if committed, or attempted in this state, would have been punishable as one or more of the offenses enumerated in this Title.
  6. The applicant or permit holder is required to register under Section 290 of the Penal Code, or the equivalent statute under federal law or the law of another state,
  7. The massage facility license or similar license or permit held by the applicant, permit holder, or any massage therapist who will work at the proposed business or location has been revoked or suspended for cause within the 5 years preceding the application,
  8. The facilities and operations of the massage facility are not maintained in compliance with the provisions of this chapter at all times;
  9. The license was issued in error.
  10. An applicant has, within the preceding five years, been convicted of, or is under indictment or is currently awaiting trial for a crime involving or constituting any violation of the following (including lesser offenses, and equivalent offenses under federal law or the laws of other states) :
    1. Prostitution or solicitation of prostitution, (Penal Code 653.22)

2. Pandering or pimping, (Penal Code 266)
  3. Obscenity as defined under California law,
  4. Sale, distribution or display of harmful material to minors, (Penal Code 313.1)
  5. Sexual assault, (Penal Code 243.4)
  6. Running a house of prostitution;(Penal Code 315)
  7. Any offense that requires registration as a Sex Offender (Penal Code 290)
  8. Child Pornography (Penal Code 311.11)
- B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
  - C. Any location occupied by a massage facility, which has had its massage facility license revoked, shall be ineligible for a massage facility to occupy the location for a period of no less than three years.
  - D. Any applicant whose massage facility license has been revoked shall be ineligible to apply for a facility license for a period of no less than three years.

#### Section 5.20.050 Distance Limitation Requirements

No massage facility may be located within 3,000 feet of another massage establishment or within 2,000 feet of an elementary, secondary, or high school.

#### 5.20.060 - Investigation by City.

- A. Upon receipt of a complete application, the City shall refer the application to all appropriate City departments and County agencies to determine if all applicable requirements are met. The departments shall review the application and the structure shall be inspected. The departments may request additional information reasonably related to the licensing requirements of this chapter. The departments shall determine whether the massage facility and massage therapists comply with the applicable laws, including appropriate zoning, land use district designations, and CAMTC certification.
- B. If the City, following investigation of the applicant and facility, determines that the applicant does not fulfill the requirements set forth in this chapter, the City shall deny the application in writing. The decision shall be delivered by certified U.S. mail with return receipt. The City's decision shall be effective irrespective of delivery or acceptance by the applicant. Within 60 days following the denial of the application, if the applicant provides evidence to the City that the applicant or facility can be brought into compliance, the City shall consider the evidence presented and render a decision as to whether the facility or applicant complies and may continue the licensing process.
- C. Any application may be denied for noncompliance with any of the requirements of this chapter, including the grounds upon which a license can be revoked. Following the denial of a massage facility license, no application for a massage facility license may be filed by the same applicant, at the same or substantially same location, for a period of no less than three years following the date of the denial. The applicant may appeal the denial, as set forth in Section 5.04.150.

#### 5.20.070 - Massage facilities operational requirements.

All massage facilities must comply with the operational provisions of this section. Noncompliance with these provisions may result in suspension or revocation of an existing massage facility license, or the denial of a new or renewed license.

- A. A readable sign shall be posted at the main entrance identifying the establishment as a massage facility; provided, however, that all such signs shall otherwise comply with the sign requirements of the Municipal Code.
- B. Minimum lighting shall be provided in accordance with the California Building Code. In addition, at least one unobstructed artificial light of not less than 450 lumens shall be provided and used at all times in each enclosed room or booth while massage services are being rendered.
- C. Minimum ventilation shall be provided in accordance with the California Building Code.
- D. Instruments used for massage shall be disinfected prior to each use by a method approved by the San Bernardino County Department of Environmental Health Services. Where such instruments for massage are employed, adequate quantities of supplies for disinfection shall be available during all hours of operation.
- E. Hot and cold running water shall be provided at all times.
- F. Closed cabinets shall be utilized for the storage of clean towels and linen. After use, towels and linen shall be removed from the room or booth and stored in a clean container until laundered.
- G. Dressing and toilet facilities shall be provided for patrons. If male and female patrons are to be treated simultaneously, then separate dressing and toilet facilities shall be provided.
- H. All walls, ceilings, floors, steam, and vapor rooms, and all other physical facilities for the massage facility shall be kept in good repair, maintained in a clean and sanitary condition.
- I. Clean and sanitary towels and linens shall be provided for patrons receiving massage services. No common use of towels or linens shall be permitted.
- J. Standard or portable massage tables and chairs with durable, washable plastic or other waterproof material as covering shall be used for massage. Foam pads more than four inches thick or with a width of more than four feet may not be used. Beds, mattresses, and water beds may not be used in the administration of a massage.
- K. The premises shall not operate as a school of massage, or use the same facilities of a school of massage.
- L. A valid and current massage facility license shall be posted in a conspicuous place on the premises.
- M. No massage facility shall place, publish, or distribute any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective customers or clients that any service is available other than massage services.
- N. No massage facility shall be open for business without at least one massage technician, massage practitioner, or massage therapist on the premises in possession of a valid, current CAMTC license.

#### 5.20.080 - Hours of operation.

No massage facility shall be open between the hours of 10:00 p.m. and 7:00 a.m. Massage facilities shall not sell food or beverages, or serve food or beverages, to patrons on the premises of the massage facility; except from licensed vending machines.

#### 5.20.090 License Requirements for Massage Therapists

- A. Every person performing massage services for compensation shall obtain and maintain a valid state massage certification from CAMTC.

- B. A massage practitioner or massage therapist certified by the CAMTC is not subject to the criminal background required by this chapter.
- C. A massage therapist shall file a copy of the certificate by the CAMTC with the City.
- D. A massage therapist shall maintain their certification while performing massage in the City.

#### 5.20.100 - Prohibited conduct.

- A. No massage therapist or massage facility owner, manager, or employee shall engage in unprofessional conduct, as such is defined by Section 4609(a)(1) of the Business & Professions Code, or any of its successor provisions.
- B. No massage therapist or massage facility owner, manager, or employee may expose his or her genitals, buttocks, or in the case of a female, her breast(s), to any individual or patron, or in the course of administering a massage.
- C. No person shall enter, be or remain in any part of a massage facility while in the possession of, consuming, under the influence of, or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, or therapist shall not permit any such person to enter or remain upon such premises.
- D. No audio or video recording may be made of the performance of a massage.

#### 5.20.110 - Abatement.

Any massage facility operated, conducted or maintained contrary to the provisions of this chapter is deemed a public nuisance and the City attorney or City prosecutor may, in addition to, or in lieu of prosecuting a criminal action, commence an action for the abatement and enjoinder thereof in any court of competent jurisdiction.

#### 5.20.120 - Inspection and enforcement.

Officers of the police department, the San Bernardino County Environmental Health Department, the building and safety division, the planning division, code enforcement, and the fire department shall have the right to enter any massage facility during regular business hours to make reasonable inspection to ensure compliance with the provisions of this chapter.

## Chapter 5.22 - BODY ART FACILITIES

### Sections:

#### 5.22.010 -License Required

Any person desiring to operate a body art facility must obtain a body art facility business license prior to operating.

#### 5.22.020 –Application.

- A. Each applicant, along with a completed business license application and required fees, shall furnish to the City an unexpired, valid copy of a Health Permit for the facility, and a copy of the valid Body Art Practitioner Registration for each body art practitioner, issued by the San Bernardino County Office of Environmental Health. This permit(s) shall be furnished to the City upon original application for a business license, and at each renewal thereafter.
- B. No application for renewal of a license shall be accepted earlier than ninety (90) days prior to expiration of the license.
- C. The City shall promptly reject as incomplete any application which does not meet all the requirements of this chapter, and shall notify the applicant in writing, by first class mail, postage prepaid, to the address supplied to the City by the applicant, of the deficiencies in the application.
- D. Upon receipt of a complete application, all supplemental required information, and payment of all required fees, the City shall refer the application to all appropriate City departments and County agencies. The departments shall review the application and the structure shall be inspected. The departments may request any further information, which is reasonably related to the licensing requirements of this chapter. The departments shall determine whether the premises and practitioners comply with all applicable laws, including appropriate zoning and land use designations.
- E. If the City determines that the applicant does not fulfill the requirements of this chapter, the City shall deny the application in writing, which shall be delivered to the applicant by first class mail, postage prepaid..

#### 5.22.030 - Body art facilities operational requirements.

All body art facilities must comply with the operational provisions of this section. Noncompliance with these provisions may result in suspension or revocation of an existing body art facility license, or the denial of a new or renewed license:

- A. Floors, walls, and ceilings must be smooth, free of open holes, and washable.
- B. Procedure areas in a body art facility must be:
  - 1. Equipped with a light source that provides adequate light at the procedure area.
  - 2. Separated by a wall or ceiling-to-floor partition from nail and hair activities.
  - 3. Equipped with a sink with hot and cold running water, containerized liquid soap, and single-use paper towels that are dispensed from a wall-mounted, touchless dispenser that are accessible to the practitioner.
- C. Decontamination and sanitation areas within a body art facility must be
  - 1. Separated from procedure areas by a space of at least 5 feet or by a cleanable barrier.
  - 2. Equipped with a sink with hot and cold running water, liquid soap in a wall mounted dispenser, and single-use paper towels dispensed from a wall-mounted, touchless dispenser that are readily accessible to the practitioner.

- D. Each procedure area and decontamination and sterilization area shall have lined waste containers.
- E. Each procedure area and decontamination and sterilization area shall have a container for the disposal of sharps waste that meets the following requirements:
  - 1. The sharps waste container shall be portable, if portability is necessary to ensure that the sharps waste container is within arm's reach of the practitioner.
  - 2. The sharps waste container shall be labeled with the words "SHARPS WASTE" or with the international biohazard symbol and the word "BIOHAZARD".
  - 3. All sharps produced during the process of body art shall be disposed by either of the following methods:
    - a. Removal and disposal by a company, or removal and transportation through a mail-back system approved by the San Bernardino County Department of Environmental Health pursuant to Section 118025 of the Health and Safety Code.
    - b. As solid waste, after being disinfected by a method approved by the San Bernardino County Department of Environmental Health pursuant to Section 118215(a)(3)(A) of the Health and Safety Code.
- F. The health permit shall be posted in a conspicuous place at the body art facility.
- G. Certificates of registration for all practitioners performing body art in that facility shall be prominently displayed either near the health permit or at the individual practitioner's procedure area if each practitioner has a designated area.
- H. No animals, except Service Animals as defined by Chapter 5.68 of this Code, shall be allowed in the procedure area or the decontamination and sterilization area.

#### 5.22.040 - Temporary body art facilities.

A practitioner registered in the City may practice in a temporary demonstration booth for no more than seven days in a 90-day period. The demonstration booth shall meet all of the following requirements:

- A. Provide a valid and current health permit issued by the San Bernardino County Department of Environmental Health, and a business license from the City.
- B. Provide body art services only inside a building that has hand washing facilities with hot and cold running water, soap, and single-use paper towels to which practitioners have direct access.
- C. Constructed with a partition of at least three feet in height separating the procedure area from the public.
- D. Used exclusively for performing body art.
- E. Equipped with adequate light available at the level where the practitioner is performing body art.
- F. For temporary body art events consisting of one demonstration booth, equipped with hand washing equipment that, at a minimum, consists of containerized liquid soap, single-use paper towels, a five-gallon or larger container of potable water accessible via spigot, and a wastewater collection and holding tank of corresponding size. Potable water shall be refilled and the holding tank evacuated at least every four procedures or every four hours, whichever occurs first.
- G. For temporary body art events consisting of two or more demonstration booths, practitioner hand wash areas shall be provided throughout the event. The hand wash areas shall be located within a booth with partitions at least three feet in height separating the hand wash area from the public. The area shall be equipped with a commercial, self-contained hand wash station that consists of containerized liquid soap, single-use paper towels, a storage capacity of five gallons or more of potable water, and a trash receptacle. The sponsor shall provide one hand wash area for every two demonstration booths at the event.

- H. Animals, except Service Animals as defined by Chapter 5.68 of this Code, shall not be allowed within the confines of the demonstration booth.
- I. The name, telephone number, and directions to an emergency room near the temporary body art event shall be posted in a conspicuous location.
- J. Each practitioner working in a booth at a temporary body art event shall display his or her Practitioner Registration, issued by the San Bernardino County Department of Environmental Health, or keep the certificate in a folder that is available for inspection upon request of the enforcement officer or a client.

5.22.050 - License procedures.

- A. Upon payment of all fees and successful verifications of the qualifications of the applicant, a body art facility business license shall be issued to the applicant by the City. A body art facility business license shall be denied if the applicant has not met the requirements of this chapter and applicable laws.
- B. Any person denied a license pursuant to this chapter may appeal the denial in writing pursuant to the provisions of Section 5.04.150.
- C. All body art facility business licenses issued under this chapter are nontransferable, both as to location and as to the person holding the license.

5.20.070 - Prohibited conduct.

Body art work done in specified anatomical areas defined in Section 16.20.320(C) must be done in an enclosed area out of plain view of the other patrons in the facility.

5.22.090 - Inspection

Officers of the police department, the San Bernardino County Environmental Health Department, the building and safety division, the planning division, code enforcement, and the fire department shall have the right to enter any massage facility during regular business hours to make reasonable inspection to ensure compliance with the provisions of this chapter.

A body art practitioner whose certificate of registration has been suspended or revoked shall cease doing business until the certificate has been reinstated or a new one has been issued. Suspension of the registration of one practitioner in a body art facility does not affect the status of other practitioners in the facility unless the violation or violations are for conditions or equipment that affects the ability of all the practitioners in the facility to comply with the health and safety provisions of this chapter.

## Chapter 5.24 - PEDDLING, SOLICITING AND HAWKING

### Sections:

#### 5.24.010 – License Required

Any person desiring to peddle goods, wares, or services, or solicit as defined by the Hesperia Municipal Code Section 1.04.050 shall obtain and maintain a valid business license for peddling or soliciting. This shall include vending of ice cream and mobile food truck operations as defined by this code.

#### 5.24.020 – License Fee Exemptions.

The following persons are exempt from license fees.

- A. Veterans. Any person who was honorably discharged or honorably relieved from the armed services of the United States unless the merchandise includes alcoholic beverages.
- B. Religious, Scientific or Charitable Organizations. Organizations qualifying under this exemption must furnish proof of qualification as a 501(c)3 organization.

#### 5.24.030 –Application .

In addition to the application requirements specified in Section 5.04.040, the following information shall be required:

- A. The supplier of the goods to be sold;
- B. A copy of the state sales tax permit (California Revenue and Taxation Code § 6066) for the applicant's activities attached to the application;
- C. A description of every type of merchandise or service that the applicant proposes to peddle or solicit;
- D. The location where the applicant proposes to peddle or solicit and the dates and time of the same;
- E. A copy of the permit for any food products that are regulated.
- F. A copy of any applicable state or county issued permits for food vending vehicles.

#### 5.24.040 - License limitations.

The following shall be required of all applicants:

- A. A correct and complete application form;
- B. Payment of all required fees;
- C. The supplier of the personal property to be sold has been sufficiently identified as required by this chapter and there is no reasonable doubt as to the title or ownership of the personal property;
- E. The time and place of the proposed licensed activities is in accordance with the regulations set forth in this chapter.
- F. A valid LiveScan clearance issued by the Department of Justice (DOJ) prepared within the last 30 days.

#### 5.24.050 - Hours of operation.

A license issued under this chapter shall authorize the licensee to peddle or solicit during the dates specified on the license and only during daylight hours.

Mobile food trucks shall not be prohibited from operating during hours outside daylight.

5.24.060 - Hawking prohibited.

Hawking, as defined in Section 1.04.050, is prohibited.

## 5.26 MOBILE FOOD VENDING, ICE CREAM TRUCKS, SIDEWALK VENDING

### 5.26.010 – License Required

Any person desiring to peddle goods, wares, or services as defined by the Hesperia Municipal Code Section 1.04.050 shall obtain and maintain a valid business license.

Any person desiring to operate a mobile food vending or sidewalk vending business shall also secure a permit for mobile food vending or sidewalk vending.

### 5.26.020 - Mobile food and ice cream vending vehicle operations.

Special requirements for mobile food and ice cream vending vehicle operations shall apply as follows:

- A. Equipment Requirements for Mobile Food Vending and Ice Cream Vending Operations. In addition to other equipment required by law, every mobile food vending vehicle and ice cream vending vehicle shall be equipped with:
  - 1. Signal lamps mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be five to seven inches in diameter and shall display two alternately flashing amber lights visible at 500 feet to the front and rear in normal sunlight upon a straight level street. The light output of each indicator shall not be less than 5 candle power nor more than 15 candle power at any time;
  - 2. A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the truck obscured by the hood;
  - 3. An audible warning device to indicate vehicle backing automatically activated and audible at a distance of 100 feet to the direct rear of the vehicle.
- B. Use of Special Lights on Mobile Food Vending and Ice Cream Vending Vehicles.
  - 1. The driver of a mobile food vending or ice cream vending vehicle stopped on the street for the purpose of vending shall actuate the special amber flashing lights required by subsection (A)(1) of this section;
  - 2. These lights shall not be used when the truck is in motion nor at any time the truck is stopped for a purpose other than vending.
- C. Every operator of a mobile food vending vehicle or ice cream vending vehicle used for the purpose of retail sales of frozen dairy products shall provide, upon application:
  - 1. Photos of the sides, front, and rear of the truck
  - 2. Copies of applicable permits issued by the Department of Environmental Health.
- D. Renewal of License.

Each annual renewal of the license shall require that the operator of the mobile food vending vehicle provide:

  - 1. Copies of applicable permits issued by the San Bernardino County Department of Environmental Health.
- E. Vending Restrictions.
  - 1. A person shall vend only when the vehicle is lawfully parked or stopped.
  - 2. A person shall vend only from the side of the vehicle away from moving traffic and as near as possible to the curb or edge of the right-of-way.
  - 3. A person shall not vend to a person standing in the roadway.
  - 4. A person shall not stop on the left side of a one-way street to vend.
  - 5. A person shall not vend on a street unless there is a clear view of the mobile food vending vehicle for a distance of at least 200 feet in each direction.
- F. Backing Restricted. The vendor shall not back up the vehicle on a public street to make or attempt a sale.
- G. Unauthorized Riders Prohibited.
  - 1. The driver shall not permit any unauthorized person to ride in or on the vehicle.
  - 2. A person shall not ride in or on a mobile food vending machine unless employed by its owner or unless authorized in writing to do so by the owner or by receiving permission through the application process of this title.

3. All operators licensed to operate a mobile food truck or ice cream vending vehicle shall be at least 18 years of age

#### 5.26.030- Sidewalk Vending.

Sidewalk vending includes selling or distributing food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one's person, upon a public sidewalk or other public pedestrian path or within a public park. A sidewalk vendor can be roaming or stationary. The following sidewalk vendors are not subject to the standards in this Subsection:

- A. A sidewalk vending pushcart owned or operated by any public agency;
- B. Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
- C. Vendors participating in farmers markets or other special events as allowed by the City;
- D. An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
- E. Vendors that only sell, distribute, display, solicit, or offer sale of items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).

5.26.040 - Vending permit required. No sidewalk vendor shall operate without a sidewalk vending permit and a business license.

5.26.050 – Application. The application for a sidewalk vending permit shall be signed by the applicant and shall include at least all of the following information:

- A. The name and current mailing address of the applicant;
- B. A description of the type of food, beverage, or merchandise to be sold, as well as hours of operation, a description of the cart, and any additional information that will explain the proposed use;
- C. A description and photograph (including colors and any signs) of any stand to be used in the operation of the business;
- D. A certification by the sidewalk vendor that to his or her knowledge and belief, the information contained on the application is true;
- E. A copy of the vendors unexpired Sellers Permit.
- F. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal;
- G. If operating in State right-of-way, the vendor shall provide evidence of the State's authorization;
- H. Proof of insurance policy, issued by an insurance company licensed to do business in the State, protecting the permittee and the City from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name as additional insured the City and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the City.

5.26.060 – Vending locations prohibited.

Stationary sidewalk vending is prohibited in all residential zones of the City of Hesperia.

5.26.070 – License Issuance Not later than 60 days after the filing of a completed application for a vendor's permit, the applicant shall be notified of the decision on the issuance or denial of the permit.

- A. Fees shall be determined by council resolution and shall be paid prior to issuance of a permit.
- B. Locations for vending shall be approved by the Director.

1. In addition to any locational restrictions found in Section 5.26.060 vending locations may be further limited by the Director only if the limitation is directly related to objective health, safety or welfare concerns, including but not limited to:
  - a. the ability of the site to safely accommodate the use;
  - b. pedestrian safety.
2. Vending locations may change only upon written request by an applicant and approval by the Director.

5.26.080 - Term and Renewal. All permits are valid for one year unless revoked or suspended prior to expiration. An application to renew a permit shall be made not later than 90 days before the expiration of the current permit. A valid business license shall be applied for or renewed concurrently with the vendors permit each year.

5.26.090 - Vending cart requirements. No vending cart shall exceed four feet in width, eight feet in height, or eight feet in length.

5.26.100 - Safety requirements. All sidewalk vendors that prepare or sell food shall comply with the following requirements:

- A. All equipment installed in any part of the cart shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
- B. All utensils shall be securely stored in order to prevent their being thrown from the cart or vehicle in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
- C. Compressors, auxiliary engines, generators, batteries, battery chargers, gas-fueled water heaters, and similar equipment shall be installed so as to be hidden from view to the extent possible and be easily accessible.
- D. All vendors must possess a valid permit issued by the San Bernardino County Health Department, if the sidewalk vendor intends to sell food or any other item requiring a County Health Department permit.

5.26.110 - Display of permit. All permits shall be displayed in a visible and conspicuous location at all times during the operation of the vending business.

5.26.120 –Stationary Vending Operational Standards. It shall be prohibited for any sidewalk vendor to operate under any of the following conditions:

- A. Vend between 2:00 a.m. and 6:00 a.m. unless in conjunction with a special event;
- B. Leave any stand unattended;
- C. Store, park, or leave any stand overnight on any public street, sidewalk, or park;
- D. Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use;
- E. Leave any location without first disposing all trash or refuse remaining from sales conducted. Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;
- F. Discharge solids or liquids to the street or a storm drain;
- G. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand;
- H. Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
- I. Solicit or conduct business with persons in motor vehicles;
- J. Sell anything other than that which he or she is permitted to vend;
- K. Sound or permit the sounding of any device that produces a loud and raucous noise or any noise in violation of the City's noise ordinance, or use or operate any loud speaker,

public address system, radio, sound amplifier, or similar device to attract the attention of the public;

- L. Vend without the insurance coverage previously specified;
- M. Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;
- N. Vend from the exposed street or alley and/or traffic side of the vending cart;
- O. Operate in a manner that does not maintain four feet of clear space on a public sidewalk;
- P. Operate a stationary vending cart in exclusively residential zones;
- Q. Operate a sidewalk vending cart within 500 feet of a certified farmers' market or swap meet during the operating hours of that certified farmers' market or swap meet;
- R. Operate a sidewalk vending cart within 500 feet of any public sidewalk, street, right-of-way, or other public property approved for commercial filming or a temporary event or festival;
- S. Operate in violation of any other generally applicable law;
- T. Display off-site signs. No signs are allowed, except those approved in the application which identify the name of the product or the name of the vendor and the posting of prices on the cart. Signs with intermittent, flashing, moving, or blinking light, or varying intensity of light or color, are not permitted.

#### 5.26.130 - Mobile vendors.

This section regulates mobile vending other than in public sidewalks or parks. Mobile vending can promote the public interest by contributing to an active and attractive pedestrian environment. However, reasonable regulation of mobile vending is necessary to protect the public health, safety, and welfare. The purpose of this subsection is to set forth the conditions and requirements under which mobile vendors may be permitted to operate to protect the public health, safety, and welfare of the residents of and visitors to Hesperia.

#### 5.26.140 - Applicability. Mobile vending activity may occur within a public or private open space not including a public sidewalk or park (e.g. parking lot, plaza, etc), or from a vehicle legally parked on a street, in all commercial, mixed-use, business park and industrial zones in compliance with the standards in this subsection. Mobile vending activity may also occur from a vehicle legally parked on the street in all residential zones, in compliance with the standards in this Subsection. The following mobile vendors are not subject to the standards in this subsection:

- A. A mobile vending vehicle or pushcart owned or operated by any public agency;
- B. Persons delivering goods, wares, merchandise, fruits, vegetables, or foodstuffs upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution;
- C. Vendors participating in farmers markets or other special events as allowed by the City;
- D. An event at a school facility or an assembly use facility, if the vendor is operating in partnership with the organization conducting the event and is located on the site of the event (i.e., not in the public right-of-way);
- E. Vendors that only sell, display, distribute, solicit, or offer sale of items that are inherently communicative and have nominal utility apart from its communication (e.g., newspapers, leaflets, pamphlets, buttons, etc.).

#### 5.26.150 – Mobile Vendor Application Additional Requirements. The application for a mobile vendor's permit shall be signed by the applicant and shall include, in addition to the requirements of Section 5.26.050, the following:

- A. The state vehicle license plate number and the vehicle identification number of the mobile vendor vehicle.
- B. If operating on private property or on a City-owned parking lot, plaza, or other City-owned area (other than a public sidewalk or park), the mobile vendor shall provide evidence of the property owner's written authorization.

- C. If operating in State right-of-way, the mobile vendor shall provide evidence of the State's authorization.
- D. For each person with a 10% or greater financial interest in the business that operates the mobile vendor vehicle, a list, signed under penalty of perjury, of each conviction of such person and whether such conviction was by verdict, plea of guilty, or plea of no contest. The list shall, for each conviction, set forth the date of arrest, the offense charged, and the offense of which the person was convicted. A person who acquires a 10% or greater financial interest in the business that operates the mobile vendor vehicle during the term of the permit issued pursuant to this Code shall immediately so notify the Director and comply with this Subsection.
- E. Valid permit issued by the San Bernardino County Environmental Health Department, if the sidewalk vendor intends to sell food or any other item requiring a County Health Department permit.
- F. Evidence of compliance with Health & Safety Code § 114315(a). Such evidence may include, but is not limited to, written permission from a private business owner for use of the business's toilet and hand washing facility, a printed or electronic map showing the location of a compliant public toilet and hand washing facility, or similar documented evidence of compliance.

#### 5.26.160 – Mobile Vending Locations.

Mobile vending may take place within the commercial, mixed-use, business park, industrial, and/or residential zones, with individual locations approved by the Director.

- A. Vending locations shall be designated based on the ability of the site to safely accommodate the use.
- B. Vending locations may change only upon written request by an applicant and approval by the Director.
- C. All locations of vending stands shall be considered in relation to right-of-way configurations and pedestrian safety.

#### 5.26.170 – Mobile Vending Operational standards. It shall be prohibited for any mobile vendor to operate under any of the following conditions:

- A. Vend between 2:00 a.m. and 6:00 a.m. unless in conjunction with a special event;
- B. Leave any stand or motor vehicle unattended;
- C. Store, park, or leave any stand overnight on any public street or sidewalk, or park any motor vehicle other than in a lawful parking place;
- D. Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use;
- E. Leave any location without first disposing all trash or refuse remaining from sales conducted. Trash and refuse generated by the vending cart operations shall not be disposed of in public trash receptacles;
- F. Discharge solids or liquids to the street or a storm drain;
- G. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand or vehicle;
- H. Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described by his or her application;
- I. Solicit or conduct business with persons in motor vehicles;
- J. Sell anything other than that which he or she is permitted to vend;
- K. Sound or permit the sounding of any device that produces a loud and raucous noise, or any noise in violation of the City's noise ordinance or use or operate any loud speaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public;
- L. Vend without the insurance coverage previously specified;
- M. Operate within 50 feet of a fire hydrant or 25 feet of a transit stop;

- N. Operate within 25 feet of the outer edge of a driveway or vehicular entrance to public or private property in residential zones;
- O. Operate within 100 feet of the outer edge of a driveway or vehicular entrance to public or private property in commercial, business park, mixed use, or industrial zones;
- P. Vend from the exposed street or alley and/or traffic side of the vending cart or vehicle;
- Q. Vend while parked illegally;
- R. Vend from any street parking space other than a space parallel to the curb;
- S. Operate in a manner that does not maintain four feet of clear space on a public sidewalk;
- T. Operate in any manner or location that blocks any citizen or service entry or exit from any business or residence;
- U. Operate from any motor vehicle not licensed by the Department of Motor Vehicles.
- V. Display off-site signs. No signs are allowed, except those approved in the application which identify the name of the product or the name of the vendor and the posting of prices on the cart. Signs with intermittent, flashing, moving, blinking light, or varying intensity of light or color, are not permitted.

5.26.180 - Additional Operational Standards in Public Parks. In addition to the operational standards in Section 5.26.130 and Section 5.26.180 the following shall also be prohibited for any sidewalk vendor operating in a public park:

- A. Operate outside the hours of operation of the park;
- B. Operate more than six (6) feet from any walking or bicycling pathway in the park;
- C. Operate within 50 feet of any other sidewalk vendor in the park;
- D. Operate on, or within 25 feet of, any sports field or playground equipment area.
- E. Utilize any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park in any way as part of the sidewalk vending operation.
- F. Operate within 25 feet of any bench, table, barbeque pit, covered gathering area, or other publicly-owned structure or amenity in the park.

5.26.190 - Denial, suspension, and revocation. Any permit may be denied, suspended, or revoked for any of the following causes:

- A. Fraud or misrepresentation contained in the application for the permit.
- B. Fraud or misrepresentation made in the course of carrying on the business of vending.
- C. Conduct of the permitted business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, or welfare.
- D. Conduct in violation of the provisions of this chapter.
- E. Denial, void, or revocation of the business license shall result in revocation of the vendor permit.

5.26.200 - Violation of sidewalk vending requirements. A violation of these sidewalk vending requirements, other than failure to possess a valid sidewalk vending permit, is punishable by the following:

- A. An administrative fine of one hundred dollars (\$100) for a first violation.
- B. An administrative fine of two hundred dollars (\$200) for a second violation within one year of the first violation.
- C. An administrative fine of five hundred dollars (\$500) for each additional violation within one year of the first violation.
- D. Rescission of a sidewalk vending permit for the term of that permit upon the fourth violation or subsequent violations.

5.26.210 - Vending without a permit. Vending without a sidewalk vending permit issued by the City of Hesperia is punishable by the following:

- A. An administrative fine of two hundred fifty dollars (\$250) for a first violation.
- B. An administrative fine of five hundred dollars (\$500) for a second violation within one year of the first violation.

- C. An administrative fine of one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
- D. Upon proof of a valid permit issued by the City of Hesperia, any administrative fines imposed under this subsection for vending without possessing a copy of the permit shall be reduced to the administrative fines set forth in Section 5.26.200.

All fines imposed pursuant to sections 5.26.200 and 5.26.210 shall be subject to an ability-to-pay determination as described in California Government Code section 51039(f). Concurrently with issuing a citation for such fines to a person, the City shall provide the person with notice of his or her right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination.

## Chapter 5.28 - POOL AND BILLIARD HALLS

### 5.28.010 - Prohibited activities.

The following activities shall be prohibited within pool and billiard halls and rooms:

- A. Gambling or possession of any gambling device;
- B. Operating a pool or billiard hall between the hours of 12:00 a.m. and 6:00 a.m.;
- C. To allow any person under the age of eighteen (18) to be present or remain in the billiard hall or pool room;

### 5.28.020 - Exemptions.

This chapter shall not apply to any organization having one or more billiard tables or pool tables on their private premises solely for the use of their members and guests, and where no fee is charged for the use of such billiard tables or pool tables and the use of such tables is not open to the public.

## Chapter 5.32 - PRIVATE PATROL SERVICES AND PRIVATE PATROLPERSONS

### **Sections:**

#### 5.32.010 - Registration.

It is unlawful for any private patrol service to employ or have associated with it in the conduct of its business any private patrolperson who is not currently registered pursuant to Section 7581(e) of the California Business and Professions Code. Current registration shall be presented to any law enforcement or code enforcement officer upon request.

#### 5.32.020 - Proof of registration.

Each applicant shall prove to the satisfaction of the City that he or she possesses a valid license under the Private Investigator Act of the State of California. A current copy of the state license shall be filed with the application.

## Chapter 5.36 - TAXICABS

### 5.36.010 - Exemptions.

This chapter shall not apply to public transportation services being performed pursuant to a contract or franchise with the City or any other public entity in this state.

### 5.36.020 - License required.

It is unlawful for any person to engage in the business of operating or causing to be operated any taxicab service within the City, without having a license to do so under the provisions of this chapter.

### 5.36.030 - Application for taxicab service license.

Any person desiring to obtain a license to operate a taxicab service under this chapter shall submit a written application pursuant to Section 5.04.040 to the City. In addition to the information required by Section 5.04.040, the following information shall be provided:

- A. The number of vehicles to be operated under the permit;
- B. The make, type, year, manufacturer, vehicle license number, and passenger seating of the vehicles to be used by the applicant;
- C. The proposed color scheme, insignia or other distinguishable characteristics of the taxicab to be used, including the type of illuminated sign to be mounted on the top of the vehicle and legend thereon;
- D. Legal and registered ownership of the vehicles to be used by the applicant. It shall be the licensee's responsibility to notify the City of any changes in vehicles registered to their license;
- E. Prior experience of the applicant and each driver in the taxicab business, including any prior denial, revocation or suspension by any public agency of any taxicab service or taxicab driving permit, license or certificate for a period of five years prior to application;
- F. A valid LiveScan clearance issued by the Department of Justice (DOJ) prepared within the last thirty days.
- G. Written evidence satisfactory to the City that each driver employed by the applicant has complied, and currently complies, with the provisions of California Government Code Section 53075.5(b)(3), or any successor provision thereto, pertaining to pre-employment and periodic testing of drivers for controlled substances and alcohol, and with provisions therein pertaining to payment for drug and alcohol testing programs and related reporting requirements.
- H. This program shall include, but not be limited to:
  1. Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the City shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.
  2. Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.
  3. A test in one jurisdiction shall be accepted as meeting the same requirement in any other jurisdiction. Any negative test result shall be accepted for one year as meeting a

requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

4. In the case of a self-employed independent driver, the test results shall be reported directly to the City, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the City of positive results.
5. All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.
6. Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and follow-up testing.
7. Upon the request of a driver applying for a permit, the City shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the City knows offer tests in or near the jurisdiction.

#### 5.36.040 – Investigations

- A. Upon receipt of a complaint containing sufficient information to warrant conducting an investigation, the City shall investigate any business that advertises or operates taxicab transportation service for hire. Pursuant to this investigation, the City shall do all of the following:
- B. Determine which businesses, if any, are required to have in effect a valid taxicab certificate, license, or permit as required by ordinance, but do not have that valid authority to operate.
- C. Inform any business not having valid authority to operate that it is in violation of law.
- D. Investigate whether the business has committed or is committing any violations of this code, or any other state or federal code, which they are required to follow.
- E. Within 60 days of informing the business pursuant to paragraph (b), institute civil or criminal proceedings, or both, pursuant to the Hesperia Municipal Code.

## Chapter 5.44 - HOME OCCUPATIONS

### Sections:

#### 5.44.010 - Purpose.

The purpose of the home occupation provisions is to permit the conduct of a home-based business for supplemental income purposes in the residential districts. Home occupations are limited to those uses which may be conducted within a residential dwelling, without in any way changing the appearance or condition of the residence, or the surrounding neighborhood.

#### 5.44.020 – Application

Any person desiring to obtain a license to operate a business as a home occupation shall submit a written application pursuant to Section 5.04.040 to the City. In addition to the information required by Section 5.04.040, the City shall prepare and mail, by first class postage, a notification to all contiguous property owners listing the name of the applicant, name of the business, address where the business shall be held, the home occupation regulations, and contact information pertaining to the filing of a complaint against the operator of a home occupation who is in violation of any provisions of this chapter. “Contiguous property” is defined as those properties that share a common boundary with the subject property, including across streets and within a 300 foot radius of the subject property.

#### 5.44.030 - Mandatory conditions for operation.

Home occupations may be permitted on property used for residential purposes, based upon the following conditions:

- A. The use of the dwelling for such home occupation shall be clearly incidental and subordinate to its use for residential purposes by its inhabitants.
- B. No persons, other than members of the family who reside on the premises, shall be engaged in such activity on the site, with the exception of an employee at a cottage food establishment.
- C. There shall be no change in the outward appearance of the building or premises, or other visible evidence of the activity.
- D. There shall be no sales of products on the premises, except produce (fruit or vegetables) grown on the property, and the sales of products produced by a permitted cottage food establishment.
- E. The use shall not allow customers or clientele to visit dwellings. However, incidental uses such as music lessons, the sale of fruits and vegetables, and the sale of food produced by a cottage food establishment, may be permitted if the intensity of such use is approved by the City.
- F. A cottage food establishment shall submit a copy of a current and valid San Bernardino County Environmental Health permit, including renewals, such that the City has a current permit on file for the business at all times.
- G. No equipment or processes shall be used on the property that create noise, smoke, glare, fumes, odor, vibration, electrical, radio, or television, or wireless signal that interferes with or are disruptive to surrounding properties.
- H. All required accessory uses for the primary residential use shall be maintained in good and safe condition. The garage may be used as long as no more than 15% of the total area of the garage is utilized for the business if such use does not obstruct required parking. Any required permits for modifications shall be obtained before modifications are made.
- I. No more than 15% of the total square footage of the dwelling inclusive of the garage, or one room of the dwelling, whichever is less, shall be used for the home occupation.
- J. The use shall not involve storage of materials outside any structures.

- K. Use of the United States Postal Service in conjunction with the home occupation shall be limited to use of a post office box only.
- L. No signs shall be displayed in conjunction with the home occupation, and there shall be no advertising using the home address, either on or off site.
- M. The use shall not involve the use of commercial vehicles for delivery of materials to or from the premises, other than a vehicle not to exceed a capacity of one ton, owned by the operator of such home occupation.
- N. If an applicant is not the owner of the property where a home occupation is to be conducted, then a signed, notarized statement from the owner approving such use of the dwelling must be submitted with the application.

## Chapter 5.48 - ADULT BUSINESSES

### 5.48.010 - Purpose

It is the purpose of this chapter to regulate adult businesses in order to promote the health, safety, and general welfare of the citizens of the City. The purpose of this chapter is not to impose a limitation or restriction on the content of any communicative materials, including adult materials. Similarly, it is not the intent of this chapter to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

### 5.48.020 - Adult business license required.

- A. Any person desiring to own, operate, commence, transact, or otherwise allow the operation of an adult business shall apply for and receive an adult business license pursuant to this chapter.
- B. It is unlawful for any person to operate an adult business or to enlarge such a business by a 25% or greater floor area without a valid adult business license for the particular type of business.
- C. An application for an adult business license must be completed on a form provided by the City and shall not be deemed complete unless all of the following information is provided. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business that is open to the public, including the percentage of floor space dedicated to adult merchandise. The sketch or diagram need not be professionally prepared but must be drawn to scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- D. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with all applicable laws and regulations by all applicable State, County, and City departments. Such inspection shall be conducted by the City within two weeks of receipt of a complete application. The applicant shall be advised as to whether or not the premises are in compliance with all applicable laws and regulations within fourteen (14) days of such inspection. If the premises are found not to be in compliance, the applicant shall be served with a notice of noncompliance stating what specific actions must be taken to achieve compliance. The applicant shall have six months thereafter to achieve compliance pursuant to Section 5.48.060(B). No license shall be issued until compliance has been obtained. If the premises are not timely brought into compliance, the application shall be deemed denied.
- E. If a person who wishes to operate an adult business is an individual, he or she must sign the application for a license as applicant. If a person who wishes to operate an adult business is other than an individual, each individual who has a 10% or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 5.48.050 and each applicant shall be considered a licensee if a license is granted.
- F. Possession by an applicant of any other type of required license does not exempt such applicant from the requirement of obtaining an adult business license
- G. The applicant(s) shall furnish a LiveScan clearance issued by the Department of Justice (DOJ) prepared within 30 days of submission of a complete application.
- H. The application shall be signed by the applicant(s) and shall contain a declaration made under penalty of perjury that the information provided is true and correct. If the application is by any person who is not an individual, all individuals who have a 10% or greater interest in the business must sign such a declaration.

### 5.48.030 - Issuance of license.

- A. Except as provided in Section 5.48.060(B), the City shall issue a license to an applicant within thirty (30) days after receipt of a complete application and approved inspection, unless one or more of the following is found to be true:

1. An applicant is under eighteen (18) years of age;
  2. An applicant has failed to pay to City any taxes, fees, fines or penalties previously assessed or imposed in relation to an adult business within the five years preceding the application;
  3. An applicant has failed to provide information required by this chapter or has knowingly falsely answered a question or request for information on the application form. This shall include misleading or incomplete responses;
  4. An applicant has been convicted of a violation of a provision of this chapter within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect;
  5. The license fee required by this chapter has not been paid;
  6. The proposed establishment is in violation of or is not in compliance with Sections 5.48.070 or 5.48.080
  7. An applicant has, within the preceding five years, been convicted of, or is under indictment or is currently awaiting trial for a crime involving or constituting any violation of the following (including lesser offenses, and equivalent offenses under federal law or the laws of other states) :
    - a. Prostitution or solicitation of prostitution, (Penal Code 653.22)
    - b. Pandering or pimping, (Penal Code 266)
    - c. Obscenity as defined under California law,
    - d. Sale, distribution or display of harmful material to minors, (Penal Code 313.1)
    - e. Sexual assault, (Penal Code 243.4)
    - f. Running a house of prostitution;(Penal Code 315)
    - g. Any offense that requires registration as a Sex Offender (Penal Code 290)
    - h. Child Pornography (Penal Code 311.11)
- B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
- C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult business. The license shall be posted in a conspicuous place at or near the entrance to the adult business so that it may be easily read at any time.
- D. A licensee shall report, in writing, any material change in information provided in the application to the City within five days of such change.

#### 5.48.040 - Fees.

- A. The license fee for an adult business license shall be as established by resolution of the city council.

#### 5.48.050 - Inspection.

- A. An applicant or licensee shall permit representatives of any applicable State, County, or City departments to inspect the premises of the business for the purpose of ensuring compliance with all applicable laws, during normal business hours.
- B. A person who operates an adult business, or his agent or employee, commits an offense if he or she refuses to permit a lawful inspection of the premises by any City enforcement agent or any representative of the sheriff's department who is entering the premises to inspect pursuant to this chapter, or any other State, local, or other applicable laws at any time it is open for business.

5.48.060 - Expiration of license.

- A. Each license shall expire one year from the date of issuance and may be renewed only through successful completion of the application process provided in this chapter.
- B. In the event the City Manager denies a new license or renewal of a license, the applicant shall not be issued a license for one year from the date of denial; unless, subsequent to denial, the City Manager finds that the basis for denial of the license or renewal has been corrected or abated, in which event the applicant will be granted a license if at least ninety (90) days have elapsed since the date denial became final.
- C. In the event that the issues resulting in the denial of the license are not corrected or abated, the business must close by the conclusion of the appeal period, in the event no appeal is filed. Should an appeal be filed, and the violation is upheld, the business must close within 48 hours following the conclusion and decision of the appeal.

5.48.070 - Suspension of license.

- A. The City Manager may suspend a license, which suspension shall not become effective until expiration of the appeal period provided herein, or until an appeal has been denied, whichever is later, for a period not to exceed thirty (30) days if he or she determines that a licensee or an employee of a licensee has:
  - 1. Violated or is not in compliance with any applicable section of this chapter;
  - 2. Refused to allow an inspection of the business premises as authorized by this chapter;
  - 3. Served alcohol on the business premises without having all legally required licenses or permits;
  - 4. Failed to comply with, or has knowingly permitted any violation of, any provision of City's building, fire, electrical, plumbing or housing code after receipt of notice from City of such violation.
- B. Notwithstanding any other provision herein, an adult business license may be suspended in the event the City Manager determines that there is an immediate and serious threat or risk of harm to the public health, safety, or welfare. If the license is suspended due to a determination of immediate and serious threat or harm to the public health, safety, or welfare, a public hearing following suspension shall be conducted at the next regularly scheduled city council meeting to determine whether or not such public threat or risk of harm has been eliminated.

5.48.080 - Revocation of license.

- A. The City Manager may revoke a license if a cause of suspension in Section 5.48.070 occurs and the license has previously been suspended within the preceding twelve (12) months.
- B. The City Manager may revoke a license if he or she determines that:
  - 1. A licensee knowingly gave false or misleading information in the material submitted during the application process;
  - 2. A licensee or an employee has allowed possession, use, or sale of illegal controlled substances on the premises;
  - 3. A licensee or an employee has allowed prostitution on the premises;
  - 4. A licensee or an employee knowingly operated the adult business during a period of time when the licensee's license was suspended;
  - 5. A licensee has been convicted of an offense listed in Section 5.48.030(A)(7) for which the time period required in Section 5.48.030(A)(7) has not elapsed;

6. On two or more occasions within a twelve (12) month period, a licensee or employee committed an offense on the licensed premises, listed in Section 5.48.030(A)(7), for which a conviction has been obtained;
  7. A licensee or an employee has allowed any act of sexual intercourse, sodomy, oral copulation, or masturbation on the licensed premises.
- C. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
  - D. When the City Manager revokes a license, the revocation shall continue for one year and the licensee may not apply for another adult business license for one year from the date revocation became effective; unless, subsequent to revocation, it is found and substantiated by the City that the basis for the revocation has been corrected or abated, in which event the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsection (B)(5), an applicant may not be granted another license until the appropriate number of years required under Section 5.48.030(A)(7) has elapsed.
  - E. Any revocation shall not become effective until expiration of the appeal period provided herein, or until any appeal has been denied, whichever is later.

#### 5.48.090 - Appeal.

If the City Manager denies the issuance or renewal of a license, or suspends or revokes a license and the suspension is not pursuant to Section 5.48.070(B), the license holder may appeal the revocation following the procedures of 5.04.150.

The filing of an appeal stays suspension or revocation until the city council makes a final decision.

#### 5.48.100 - Transfer of license prohibited.

A licensee shall not transfer his or her license to another person or business, nor shall a licensee operate an adult business under the authority of a license at any place other than the address designated in the application and license. Any license purportedly transferred shall be deemed by law to be voluntarily surrendered and of no force or effect.

#### 5.48.110 - Additional regulations applicable to nude modeling studios

- A. Nude model studios shall not employ, nor otherwise allow nude modeling by, any person under the age of eighteen (18) years.
- B. Except as otherwise provided by law, it is unlawful for any nude model studio to place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

#### 5.48.120 - Adult theaters and Adult motion picture theaters.

Adult Theaters and Adult Motion Picture Theaters are prohibited in all zoning districts of the City of Hesperia.

#### 5.48.130 - Adult motels.

Adult motels are prohibited in all zoning districts of the City of Hesperia.

## Chapter 5.50 - DISPENSING AND DELIVERY OF MEDICAL CANNABIS

ADOPTED BY CITY COUNCIL VIA ORDINANCE NO 2017-16 and ORDINANCE 2018-01

5.50.100 - General operating standards and restrictions.

### F. Insurance

4. Commercial automobile liability insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) form CA 00 01 and shall include coverage for "Owned Auto", "Scheduled Auto", "Hired Auto" and "Non-Owned Auto" with limits of liability of not less than one million dollars (\$1,000,000.00) per accident for bodily and property damage.

( [Ord. No. 2017-16](#), § 3(Exh. C), 9-19-17)

## Chapter 5.52 - BLINDER RACKS

### 5.52.020 - Blinder newsracks.

No person shall display or exhibit in any public place or place open to the public, other than a location from which minors are excluded, any harmful matter, unless a device commonly known as a "blinder rack" is in place so that the lower two-thirds thereof is not exposed to public view. For the purposes of this section, "harmful matter" is as defined in California Penal Code Section 313 as currently in effect and as may be amended.

### 5.52.030 - Penalty for violation.

It is unlawful for any person to violate any provisions, or to fail to comply with any of the requirements, of this chapter. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof may be punished by a fine not exceeding \$1,000, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. A person shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted by such person.

## Chapter 5.56 - GARAGE SALES

### 5.56.020 - Permit required.

- A. No person shall sell or participate in the sale of personal property (excluding motor vehicles) to the general public by means of a garage sale, unless a garage sale permit is obtained.
- B. Motor vehicles may not be sold by means of a garage sale.
- C. The terms "garage sale," "yard sale," "estate sale," "estate auction," "rummage sale," or any variation thereof, have the same meaning and intent under this code.

### 5.56.030 – Application

- A. Any person intending to conduct a garage sale to the general public shall file an application no more than fifteen (15) days prior to the date of such sale.
- B. The applicant shall state the date and location of the proposed sale and the name(s) of the person(s) who will be conducting the sale. The permit shall be issued by the Development Services Department for a period not to exceed three days. The permit may be summarily revoked by the City after written notice has been mailed or personally served to the applicant that a violation has occurred, or false information/representation is contained within the application. If the applicant provides satisfactory explanation of the violation, false information/representation, the City Manager may reactivate the permit.

### 5.56.040 - Number and time of garage sales.

- A. Lots With One Dwelling or Primary Sponsor (e.g., church).
  - 1. No person shall conduct more than four garage sales in a calendar year.
  - 2. A minimum of eleven (11) days shall elapse between lawfully conducted garage sales on the lot or parcel. A sale shall only be conducted between the hours of 8:00 a.m. and 8:00 p.m..
- B. Lots With More Than One Dwelling or Primary Sponsor. Lots or parcels having more than one dwelling unit or primary sponsor shall conduct garage sales as allowed by the following table.

**Number of Garage Sales Per Lot or Parcel**

No. of Units/Sponsors	No. of Garage Sales Per Year
1	4
2-10	6
11-50	8
51+	10

### 5.56.050 - Display of sale items.

Personal property offered for sale shall not be displayed or stored in adjoining public streets, alleys or rights-of-way but must remain on private property at all times. All articles shall be removed from the front or side yard before the close of the last day on which the garage sale is to be lawfully conducted.

#### 5.56.060 - Prohibited Conduct

The intent of a “garage sale” is by definition an opportunity to sell personal property no longer useful to its rightful owner and available for purchase by the public at the approved garage sale site. Sale of bulk and pre-purchased new items is prohibited, as this constitutes an illegal activity. For instance, while a reasonable person may expect to have one or a few of any one item for sale, such as a car seat or television, it is not reasonable to expect that a person would own many of that item, such 25 car seats or 10 televisions and have them offered for sale.

If upon inspection it is apparent that the items for sale at the garage sale are not within a reasonable person's expectations for new or used items for sale of personal property, and it appears that the intent of the sale is for a business to circumvent the provisions of this code and create a retail opportunity without an approved retail location, the sale shall be considered a public nuisance and subject to the enforcement procedures of Title 1 of this code.

Operation of a garage sale outside the provisions of this chapter and without a valid permit shall be considered a public nuisance and subject to the enforcement procedures of Title 1 of this code.

#### 5.56.070 - Signs concerning garage sales.

Except as otherwise provided, signs advertising a garage sale shall be displayed only on the premises on which the sale is conducted and no sign shall exceed four square feet. Two off-site directional signs may be permitted, provided that written permission to erect or affix such signs is received from the property owners on whose property such signs are to be placed. The location of such signs shall be noted on the permit. Signs may be displayed only during the hours the sale is actively being conducted and shall be removed at the close of sale activities, or at nightfall, whichever first occurs, each day. No sign may be placed in any public right-of-way or on any telephone pole, street intersection sign, or utility pole. Each sign shall bear the permit number of the permit for the sale it advertises.

## Chapter 5.60 - NON-PROFIT CAR WASHES

### 5.60.020 - Permit required.

No person shall conduct a non-profit car wash unless a permit is approved by the City.

### 5.60.030 - Non-profit car wash application and permit.

- A. Any person intending to conduct a non-profit car wash shall file an application for a permit not less than three days prior to the date of such car wash.
- B. The applicant shall state the date and location of the proposed car wash, the name(s) of the person(s) primarily responsible for conducting such car wash, and a description of the charitable nonprofit group or organization that will receive the proceeds.
- C. The permit may be summarily revoked if the applicant violates any provision of this chapter, or provides any false information/representation in the application. If the applicant provides satisfactory explanation of the violation or false information/representation, the permit may be reactivated.
- D. The applicant shall provide proof to the satisfaction of the City that the organization or group which shall receive the proceeds is non-profit and/or charitable in nature. Such proof may include a written determination by any duly authorized taxing agency of such non-profit or charitable status, or such non-profit or charitable status may be determined as a matter of law based upon statute.
- E. There shall be no fee for the permit.
- F. No permits may be issued or used during any period of time when a Stage 2 "threatened water supply shortage" or a Stage 3 "water shortage emergency" has been declared by the Board of Directors of the Hesperia Water District.

### 5.60.040 - Permit on site during car wash.

The valid permit shall be present on site during all times when the car wash is being conducted. The permit shall be produced upon request by any City official acting within his/her official capacity.

### 5.60.050 - Number and time of non-profit car washes.

- A. No person shall conduct more than six non-profit car washes in any calendar year.
- B. Each day or portion of a day on which a car wash is conducted shall count as one car wash.
- C. Non-profit car washes shall only be conducted between the hours of 8:00 a.m. and 8:00 p.m.

### 5.60.060 - Water conservation methods required.

- A. All water hoses shall have a shut-off nozzle attached so that the water will not run continuously.
- B. Vehicles must be washed from a bucket.
- C. If runoff becomes excessive, the permittees shall discontinue activities until the standing water subsides.

### 5.60.070 - Signs and solicitation.

- A. Notwithstanding any provisions to the contrary, signs advertising a non-profit car wash shall be displayed only on the premises on which the car wash is conducted and no sign shall exceed nine square feet. No signs may be placed on any sidewalks or within any public right of way.
- B. No solicitation may be done from any sidewalk or within any public right-of-way in a manner which impedes or otherwise endangers or interferes with the public's use thereof or becomes a distraction to drivers.



## Chapter 5.64 - TELECOMMUNICATIONS REGULATIONS

Reserved

## Chapter 5.68 - SERVICE ANIMALS

### 5.68.010 - Purpose.

The purpose of this chapter is to prevent discrimination against persons who require the use of a service animal, including service animal species other than dogs, in access to public accommodations in Hesperia, including businesses open to the public and all other areas open to the public.

### 5.68.020 - Definitions.

- A. Except as described in subdivision (B), the terms in this chapter are as defined in Title III of the Federal Americans with Disabilities Act (42 U.S.C. § 12181 et seq.), including but not limited to those definitions found in 42 U.S.C. §§ 12181, 12102, 12103, and section 36.104 of Title 28 of the Code of Federal Regulations (28 CFR 36.104).
- B. Notwithstanding subdivision (A), the definition of the term “service animal” in this chapter is: “any guide dog, signal dog, or other animal of any species, that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, detecting intermittent medical conditions and alerting individuals of same, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.”

### 5.68.030 - Access requirements.

- A. General. A public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability, when the modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations.
- B. Exceptions. A public accommodation may ask an individual with a disability to remove a service animal from the premises if:
  - 1. The animal is out of control and the animal’s handler does not take effective action to control it; or
  - 2. The animal is not housebroken.
- C. If an animal is properly excluded. If a public accommodation properly excludes a service animal under subdivision (B), it shall give the individual with a disability the opportunity to obtain goods, services, and accommodations without having the service animal on the premises.
- D. Animal Under Handler’s Control. A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control (e.g., voice control, signals, or other effective means).
- E. Care or Supervision. A public accommodation is not responsible for the care or supervision of a service animal.
- F. Inquiries. A public accommodation shall not ask about the nature or extent of a person’s disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A public accommodation may ask if the animal is required because of a disability and what work or task the animal has been trained to perform. A public accommodation shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Generally, a public accommodation may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person’s

wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

- G. Access to Areas of a Public Accommodation. Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go.
- H. Surcharges. A public accommodation shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If a public accommodation normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

#### 5.68.040 - Interpretation.

This chapter is to be interpreted and applied consistent with the interpretation and application of Title III of the Americans with Disabilities Act (42 U.S.C. § 12181 et seq.) and the federal regulations implementing same, except with respect to instances in which the language in this chapter expressly differs from the language of the ADA.

#### 5.68.050 - Defenses.

Defenses to an alleged violation of this chapter shall be those defenses established under Title III of the Americans with Disabilities Act (42 U.S.C. § 12181 et seq.), including but not limited to section 36.208 of title 28 of the Code of Federal Regulations, which provides that an individual and service animal need not be given access to a public accommodation when that access would pose a direct threat to the health or safety of others.

#### 5.68.060 - Liability.

Any person who violates any of the provisions of this chapter or who aids or assists in the violation of any provisions of this chapter shall be liable as follows:

- A. For actual damages including compensatory damages for pain and suffering, or one thousand dollars (\$1,000.00), whichever is greater;
- B. For costs and attorney's fees;
- C. For any equitable relief to remedy the wrong to the individual whose rights were violated and to prevent or end any future act or practice which would violate this chapter;
- D. For civil, administrative, and/or criminal penalties under Chapter 1.12 of this code.

#### 5.68.070 - Enforcement.

- A. Any aggrieved person may enforce this chapter in a civil action in any court with jurisdiction.
- B. An action for equitable relief under this chapter may be brought by any aggrieved person or by any aggrieved person or entity which will fairly and adequately represent the interests of the class of persons who require service animals because of a disability.
- C. In addition to the remedies above, violations of this chapter may be enforced by the City through the civil, administrative, and/or criminal enforcement provisions established in Chapter 1.12 of this code.

#### 5.68.080 - Nonexclusive.

Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.

#### 5.68.090 - Limitation on actions.

Actions by aggrieved persons or entities under this chapter must be filed within one year of the last occurrence of the alleged discriminatory acts.