

## **ORDINANCE NO. 2019-18**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, CONTINUING THE STAY ON THE COMMERCIAL CANNABIS PROGRAM**

**WHEREAS**, In November 2017, the City Council adopted Ordinance No. 2017-16 allowing and regulating Commercial Cannabis activity specific to Medicinal Non-Storefront Retailer Delivery Only Dispensaries; and

**WHEREAS**, on November 19, 2019 the City Council adopted Urgency Ordinance No. 2019-14 placing a stay on the Commercial Cannabis program; and

**WHEREAS**, the City has accepted fifty-five applications for commercial cannabis delivery dispensaries prior to the stay becoming effective; and

**WHEREAS**, where are currently 12 operating businesses, and 32 active applications with the remainder being withdrawn, denied, or revoked; and

**WHEREAS**, there is still a concern that there is an over-saturation of commercial cannabis delivery businesses in the City; and

**WHEREAS**, there is also a concern that because the City of Hesperia is one of the only cities in the region currently accepting applications and without a limit on the number of applications, there may be a disproportionately large number of applications in Hesperia as compared to cities that are similar in size; and

**WHEREAS**, there is a concern, which is substantiated by information staff receives from potential applicants, that Hesperia is being used as a “hub” for cannabis operators seeking a state license, who have no intention of legitimately operating within Hesperia, or of benefitting Hesperia residents with safe access to cannabis, which was the original intent of the adoption of the program; and

**WHEREAS**, the City Council desires to continue the stay on the Commercial Cannabis program, to allow the existing applicants to complete the process to ensure that the City is adequately staffed and able to support the approved and operating cannabis businesses and to ensure that the cannabis program legitimately benefits Hesperia residents and the intent of the original Ordinance is being followed; and

**WHEREAS**, the stay includes milestones which will motive applicants to complete the process or allow the City to deny the application due to lack of progress which will reduce the total number of businesses; and

**WHEREAS**, the City Council, now desires to adopt this Ordinance in the interest of preserving the intent of the original ordinance, continuing the stay on the program, providing legitimate safe access to cannabis medicine to Hesperia residents, ensuring that staff is able to fully administer the program provided the number of applicants today, and minimizing the impact of an over-saturation of cannabis delivery dispensaries in the City ;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS.**

- Section 1. All of the above recitals are true and correct and incorporated herein by reference as if set forth in full.
- Section 2. The City anticipates that without a stay on the program the number of applicants for the Commercial Cannabis program will continue to grow disproportionately in Hesperia due to the fact that there are few to no other cities accepting applications, and there is a concern that the Hesperia licensing procedure is being used to provide access to a state license that will not be used to serve Hesperia residents, but merely serve as a hub for cannabis operators who have no intention of legitimately operating in Hesperia. This could result in the peace, health, and safety being detrimentally affected, because the City will be less able to provide services such as police, fire, building & safety enforcement, code enforcement, and other enforcement activities.
- Section 3. A stay shall continue on the Commercial Cannabis program and no new applications shall be accepted as of November 19, 2019. Applications that were received prior to the Effective Date shall continue to be processed, except that no new delivery dispensary permits shall be issued for:
- a. any existing application which is denied or rejected pursuant to Chapter 5.50 of the Hesperia Municipal Code;
  - b. any application which does not successfully complete Part I of the application process within six months of the initial application date; or
  - c. any application which does not commence with Part II within 90 days of the approval of Part I.
- Section 4. Any application denied or terminated pursuant to Section 3 shall not be considered or accepted for a re-application or new application.
- Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, phrase, or portions of this ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.
- Section 6. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

APPROVED AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this 17<sup>th</sup> day of December, 2019

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Larry Bird, Mayor

ATTEST:

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Melinda Sayre, City Clerk

APPROVED AS TO FORM

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Eric Dunn, City Attorney