

ORDINANCE NO. 2021-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, ADOPTING CHAPTER 5.80 OF THE HESPERIA MUNICIPAL CODE, REGULATING TOBACCO PRODUCT SALES, REQUIRING THE LICENSURE OF TOBACCO RETAILERS

WHEREAS, the City of Hesperia finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Hesperia to protect the health, safety, and welfare of our residents; and

WHEREAS, approximately 480,000 people die in the United States from smoking-related diseases and exposure to secondhand smoke every year, making tobacco use the nation's leading cause of preventable death; and

WHEREAS, 5.6 million of today's Americans who are younger than 18 years of age are projected to die prematurely from a smoking-related illness; and

WHEREAS, despite the state's efforts to limit youth access to tobacco, youth are still able to access tobacco products, as evidenced by the following:

- In California, research indicates over 67% of current and former adult smokers started by the age of 18 and almost 100% start by age 26;
- Unless smoking rates decline, an estimated 441,000 of all California youth who are alive today will die prematurely from smoking-related diseases;
- In 2017, 22.8% of high school students in California had tried cigarette smoking;
- Between 2014 and 2018, electronic smoking device use among California youth increased from 14.1% to 46.2%; and

WHEREAS, California retailers continue to sell tobacco to underage consumers, evidenced by the following:

- 9.3% of high school students in California reported buying their own electronic cigarette from a store;
- 19.1% of California tobacco retailers unlawfully sold tobacco products to underage persons in 2018; and

WHEREAS, flavored tobacco products are used by the majority of youth and young adult tobacco users (86.4% and 57.7%, respectively) in California; and

WHEREAS, flavored products have been shown to be "starter" products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction; and

WHEREAS, studies indicate that laws prohibiting the sale of flavored tobacco products lead to decreases in youth tobacco use; and

WHEREAS, many retailers sell little cigars and cigars individually, making them more affordable and appealing to youth; and

WHEREAS, strong policy enforcement and monitoring of retailer compliance with tobacco control policies is necessary to achieve reductions in youth tobacco sales; and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law; and

WHEREAS, over 180 cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop youth from using tobacco; and

WHEREAS, the City of Hesperia has a substantial interest in protecting youth populations from the harms of tobacco use.

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

- Section 1. All of the facts set forth in this Ordinance are true, correct and are adopted as findings.
- Section 2. It is the intent of the City of Hesperia, in enacting this ordinance, to ensure compliance with the business standards and practices of the City of Hesperia and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco products to youth, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.
- Section 3. Chapter 5.80 of the Hesperia Municipal Code is hereby adopted as set forth in Exhibit "A".
- Section 4. It is the intent of the City Council of the City of Hesperia to supplement applicable state and federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraphs, sentence, clause, or phrase of this article, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this article or its application to any other person or circumstance. The City Council of the City of Hesperia hereby declares that it would have adopted each section, subsection, subdivisions, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.
- Section 5. This Ordinance shall take effect sixty (60) days from the date of adoption.

Section 6. The City Clerk shall certify to the adoption of the Ordinance and shall cause the same to be posted in three (3) public places within the City of Hesperia pursuant to the provisions of Resolution No. 2007-101.

ADOPTED AND APPROVED this 19th day of October, 2021.

Cameron Gregg, Mayor

ATTEST:

Melinda Sayre, City Clerk