

## ATTACHMENT 2

## EXHIBIT "A"

## Title 5 - BUSINESS LICENSES AND REGULATIONS

## Chapters:

## Chapter 5.50 – Dispensing and Delivery of Medical Cannabis

## 5.50.010 - Purpose and intent

## 5.50.020 - Definitions

## 5.50.030 - Operation Prohibited Without Delivery Dispensary Permit

## 5.50.040 - Delivery Dispensary Permit

## 5.50.050 - Application for Delivery Dispensary Permit

## 5.50.060 - Review of Delivery Dispensary Permit Applications

## 5.50.070 - Denial of Delivery Dispensary Permit

## 5.50.075 - Appeals

## 5.50.080 - Penalty for Violation

## 5.50.090 - Obligations of Delivery Dispensary

## 5.50.100 - General Operating Standards and Restrictions

## 5.50.110 - Fees

## 5.50.120 - Public Nuisance and Abatement

## 5.50.130 - Suspension and Revocation

## 5.50.140 - Nonconforming Use

## Sections:

## 5.50.010 – Purpose and intent

- A. The declared purpose of this chapter is to establish a comprehensive set of regulations with an attendant regulatory permit governing the operation of medical cannabis dispensaries located in the City limited to the sole activity of dispensing medical cannabis through deliveries, as provided for herein.
- B. This chapter is not intended to interfere with a patient's right to obtain medical cannabis, as provided for in California Health & Safety Code Section 11362.5. This article is not intended to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation.

## 5.50.020 – Definitions

Unless otherwise provided herein, the definitions of all terms used within this chapter shall be as defined below and by Section 16.16.445, or as defined by Section 1.04.050 (with these definitions and Section

## ATTACHMENT 2

16.16.445 taking precedence over Section 1.04.050 in the event of conflict). Any ambiguity in the definitions used herein shall be resolved in favor of the City's understanding of the term.

- A. "Delivery dispensary" means a dispensary, with a permanent fixed location within the City, limited to retail sales of medical cannabis, or medical cannabis products, occurring exclusively through delivery. All retail sales are prohibited at the physical location of the delivery dispensary.
- B. "Employee" means any person (whether paid or unpaid) who provides regular labor or regular services for a delivery dispensary, including but not limited to at the location of a delivery dispensary.
- C. "Live scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.
- D. "Manager" means an employee responsible for management and/or supervision of a delivery dispensary.
- E. "Location" means a single address within the City, controlled, leased, or owned by the applicant, or a single suite controlled, leased or owned by the applicant at a single address within the City, or a combination of suites, at a single address within the City, adjacent to one another, controlled, leased or owned by the applicant, from which access is provided between the suites, without the need to exit the building.

### 5.50.030 – Operation Prohibited Without Delivery Dispensary Permit

It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a delivery dispensary, or to participate with a delivery dispensary as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this chapter and pursuant to a valid permit issued under this chapter. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a delivery dispensary to occupy or use a location, vehicle, or other mode of transportation.

### 5.50.040 – Delivery Dispensary Permit

- A. Prior to initiating operations as a delivery dispensary and as a continuing requisite to conducting operations, the owner of a delivery dispensary shall obtain a permit from the Director under the terms and conditions set forth in this chapter.
- B. Delivery dispensary permits shall be issued to a single location. Each delivery dispensary must apply for and receive approval for an individual location.
- C. Delivery dispensary permits issued pursuant to this chapter shall automatically expire one year from the date of issuance.
- D. Renewal of delivery dispensary permits shall follow the same procedures as provided for herein for the issuance of a new delivery dispensary permit, such procedures subject to written modification by the Director.
- E. Conditions necessary for the continuing validity of any and all permits issued for the operation of a delivery dispensary include:
  - 1. Strict adherence to each and every requirement of this chapter.
  - 2. Allowing the Director, or designee, and the Police Department to conduct reasonable inspections of the location of the delivery dispensary at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining

## ATTACHMENT 2

to the delivery dispensary, for the purposes of ensuring compliance with local and state law.

3. Maintaining with the City current and valid contact information of the owner(s) and manager(s) of the delivery dispensary.
4. Maintaining with the City current and valid contact information of a legal representative of the delivery dispensary.
5. Maintaining a valid State License of the type: M-Type 9 Non-Storefront Retailer
6. Maintaining a valid City Business License
7. A Certificate of Occupancy

### 5.50.050 – Application for Delivery Dispensary Permit

Each person, firm, partnership, or corporation desiring a delivery dispensary permit shall file an application with the Director upon a form provided by the City, and shall pay a filing fee as established by resolution adopted by the City Council from time to time. An application shall include, but not be limited to, the following:

- A. A completed business license application; and
- B. Copies of the driver's license or valid identification cards for each person listed on the license application; and
- C. All fees required; and
- D. Certification from appropriate City departments that facility inspections by City staff confirm complete compliance with all the requirements of this Chapter, including but not limited to the general operating standards and restrictions contained in Section 5.50.100; and
- E. Completed Live Scan forms (provided by the City for all business owners and applicants) that are both dated within seven (7) days of application submittal and will allow processing by City (or as otherwise authorized by law) of Live Scan; and
- F. Address of the location where the delivery dispensary will be located; and
- G. A Commercial Cannabis Delivery Site Plan, in the form prescribed by the City, showing the proposed location of the dispensary, location of security cameras, locations of all of entrances and exits, designs of proposed signage, and interior floor plan, including, but not limited to, storage areas, locked rooms designed to store cannabis, or cannabis product, employee areas, and loading and unloading zones; and
- H. A Security and Lighting Plan, in accordance with Section 5.50.100 (C), in the form prescribed by the City, detailing the security measures to be in place at the facility, including, but not limited to, all required security and alarm contracts, security camera placement, window and door locking mechanisms, secure inventory system, and any other measures in place to ensure the security of the facility and cannabis or cannabis product;
- I. A photometric plan of the entire site, inclusive of all existing and proposed outdoor lighting, which shall be professionally prepared and subject to a sample, provided by applicant, taken at night, showing the site is properly lit and the security cameras ability to capture images with the provided lighting; and
- J. A Ventilation Plan, in accordance with Section 5.50.100 (D), in the form prescribed by the City, detailing the proposed ventilation system designed to mitigate the odor from the facility to the outdoors, and to any tenants within the same building; and
- K. Evidence satisfactory to the Director of compliance with all state law requirements governing medical cannabis dispensaries; and

## ATTACHMENT 2

- L. Evidence satisfactory to the Director of compliance with all insurance requirements of this chapter; and
- M. The name, address and current phone number of any person who is managing or responsible for the delivery dispensary's activities; and
- N. The name, address and current phone number of the owner and lessor of the real property upon which the delivery dispensary is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a delivery dispensary will be operated on his/her property.
- O. Authorization for the Director to seek verification of the information contained within the application.
- P. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- Q. Any such additional and further information as is deemed necessary by the Director to administer this chapter.

### 5.50.060 – Review of Delivery Dispensary Permit Applications

- A. Upon receipt of a completed application and payment of the application and required fees, the Director shall investigate the information contained in the application to determine whether the applicant shall be issued the requested permit.
- B. If the Director determines that the applicant has completed the application improperly, the Director shall notify the applicant of such fact within sixty (60) days of receipt of the application. The incomplete application upon return as incomplete shall be deemed abandoned. The applicant may then resubmit a new application for a new review pursuant to the requirements of this section.
- C. Within ninety (90) days of receipt of the completed application, the Director shall complete the investigation, approve or deny the application in accordance with the provisions of this chapter, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- D. Upon completing the review process, the permit shall be deemed a qualified application, unless the Director finds:
  - 1. The applicant has made one or more false or misleading statements or omissions, either on the written application or during the application process; or
  - 2. A proposed location for the delivery dispensary is not allowed by state or local law, statute, ordinance, or regulation (including this Code); or
  - 3. The applicant is not a primary caregiver, qualified patient, or otherwise qualified to operate a medical cannabis dispensary under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); or
  - 4. The applicant has not satisfied each and every requirement of this chapter and Code; or
- E. The applicant does not comply with applicable state law, including, but not limited to, applicable requirements and minimum standards of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). If an application is granted a permit will not be issued until and unless full compliance by the successful applicant with the requirements of Section 5.50.90 ("Obligations of Delivery Dispensary").
- F. If the Director neither grants nor denies a complete application within ninety (90) days after it is received (except as provided in section 5.50.060(B)) the application shall be forwarded to the City Council at its next regularly scheduled meeting for consideration in strict conformance with the requirements of this chapter.

## ATTACHMENT 2

- G. Based on the information set forth in the application and the Director's review, the Director may impose reasonable terms and conditions on the use of the permit in addition to those specified in this chapter to ensure the safe operation of the delivery dispensary, and to ensure the health, safety and welfare of the citizens and visitors of the City of Hesperia.

### 5.50.070 – Denial or Revocation of Delivery Dispensary Permit

- A. Denial or Revocation. The Director may deny or revoke a Delivery Dispensary Permit if any of the following is found:
1. No person may apply for, or be granted, a permit to operate a delivery dispensary within the City who has been determined (whether by operation of the Hesperia Municipal Code, or other controlling law) to be in violation, within fifteen years prior to the operative date of this chapter, either administratively, criminally or otherwise, of a prohibition on operating a cannabis dispensary of any type within the City, and has not paid such fines and fees as a result of such violations.
  2. Additionally, no person shall employ a person at a delivery dispensary within the City who has been determined (whether by operation of the Hesperia Municipal Code, or other controlling law), to be in violation within fifteen years prior to the operative date of this chapter, either administratively, criminally, or otherwise, of a prohibition on operating a cannabis dispensary of any type within the City, and has not paid such fines and fees as a result of such violations.
  3. The results of the Live Scan reveal a criminal conviction described in Business and Professions Code Section 26057 (4)(A-E), and as may be amended from time to time. Except as provided in subparagraphs (D) and (E) of paragraph (4) of Business and Professions Code Section 26057, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, shall not be the sole ground for denial of a license.
  4. Conviction for any controlled substance felony, as that term is used in Business and Professions Code Section 26057, subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
  5. Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
  6. Failure to comply with any state or local law pertaining to commercial cannabis activity.
- B. Cure Period. Prior to revocation of a Delivery Dispensary Permit, the permittee shall be provided with a written notice which details the violation(s). The permittee shall have seven (7) days to cure the violation to the satisfaction of the Director. The seven (7) day cure period may be extended by the Director or the City Council for reasonable cause.

### 5.50.075 – Appeals

Appeals. Any decision regarding an application for, a renewal of, or the revocation of, a Delivery Dispensary Permit may be appealed to the City Manager by an applicant or (former) permit holder as follows:

1. Appellant must file a written appeal with the Hesperia City Clerk within 10 calendar days of the decision. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.

## ATTACHMENT 2

2. Notice of the time and place of an appeal hearing shall be provided to the appellant within thirty (30) days of receipt of the written appeal by the Hesperia City Clerk.
3. The appeal hearing shall be held within sixty (60) days of the filing of the written appeal with the Hesperia City Clerk, unless the 60-day time limit is waived by the appellant, or unless the City Manager continues the appeal hearing date for good cause and upon written notification to the appellant.
4. The City Manager shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the Director's decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final.
5. The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any final determination.

### 5.50.080 - 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 for violation of the law.
- 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.

### 5.50.090 - Obligations of Delivery Dispensary

- A. Before receiving possession of an approved delivery dispensary permit, as provided for in this chapter, the delivery dispensary permit holder shall to the satisfaction of the Director:
  1. Provide written authorization to the Director as well as the Police Department, to conduct reasonable inspections of the location of the delivery dispensary at the discretion of the City, including but not limited to inspection of security, inventory, and records and files pertaining to the delivery dispensary, for the purposes of ensuring compliance with local and state law.
  2. Execute an agreement indemnifying the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the delivery dispensary.
  3. Execute an agreement to:
    - a) defend, at the delivery dispensary permit holder's sole expense, any action against the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, which arises from the operation of the delivery dispensary.
    - b) to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action.
- B. Upon and after receiving possession of a delivery dispensary permit as provided for in this chapter, the delivery dispensary permit holder shall:

## ATTACHMENT 2

1. Maintain continuing compliance with all of the insurance requirements of Section 5.50.100(F) of this chapter.
  2. Immediately update the Director in writing with correct and current contact information, when there is any change in the address or phone number, previously provided to the City in compliance with this chapter, for any owner(s), manager(s) or legal representative(s) of the delivery dispensary.
  3. Comply with all conditions of approval prescribed by the Director for operation of the delivery business.
- C. Failure to perform the aforementioned actions of this Section 5.54.090 shall render the operation of a delivery dispensary unlawful.

### 5.50.100 – General Operating Standards and Restrictions

- A. Hours of operation shall be limited to 7:00 am to 7:00 pm.
- B. Regulations.
- 1) No delivery dispensary shall offer retail services or dispense in any manner to customers on site of any product, including but not limited to cannabis and cannabis accessories. All products shall be delivered to patients, or qualified caregivers, at a fixed residential address other than the dispensary.
  - 2) There shall be no sale or delivery of industrial hemp products.
  - 3) There shall be no sale or delivery to any person not in possession of a valid Identification Card denoting the person as a qualified patient or a caregiver as defined by law.
  - 4) Delivery shall only be made to residential homes, and no delivery or exchange of goods for money shall occur on City streets, sidewalks or public ways.
  - 5) Consumption of alcohol and cannabis products is prohibited in the establishment as well as in any vehicles used for delivery.
  - 6) All vehicles associated with the business shall carry in the vehicle a copy of the valid, unexpired business license.
- C. Security.
- 1) All cannabis and related products shall be stored in a secured and locked room. As no retail sales are permitted, no display of cannabis or related products is permitted.
  - 2) No person may be an employee of a delivery dispensary who has convicted of a crime involving the illegal distribution of narcotics within the last seven years, dated from time of conviction, or if the conviction required incarceration, the time of release, whichever is later.
  - 3) The facility and parking area shall be equipped with security lighting at each entrance, and no less than 5 other points on the building or property as approved by the City, and at all gated entrances. Entrance lighting and parking area lighting shall not require motion to activate and shall provide adequate lighting without the aid of motion-detecting lights. Security lighting shall illuminate the entire entrance, and the adjacent parking area upon motion detection. Each light shall provide at least 0.1 foot candle intensity. This lighting shall be in addition to any other lighting requirements of this code.
  - 4) The facility shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code section 7590 et seq. and whose agents are properly licensed and registered under applicable law.
  - 5) Security cameras shall be installed on the property, maintained in good condition, and shall provide a clear, unobstructed view of the parking area, all entrances, loading areas, bays,

## ATTACHMENT 2

windows and any other areas as determined by the Director. The cameras shall be in use 24 hours per day, 7 days per week. All recordings shall be digitally recorded and kept for no less than ninety days and shall be made available to the Police Department upon request. All recordings shall be time and date stamped. All security cameras shall be properly maintained and kept in working order.

- 6) Cannabis or cannabis product shall not be stored, kept, or otherwise accessed from outside the building. Loading and unloading of cannabis or cannabis products is allowed during business operating hours only and must be completed at the rear of the building. Loading and unloading may be allowed at the front of the building, at the discretion of the Director, providing that all of the below is true:
    - i. That there is a roll-up door or doors, which are attached to and part of the cannabis business location; and
    - ii. That the interior of the building accessible by the roll-up door(s) is large enough to accommodate a vehicle, completely inside the facility; and
    - iii. That the roll-up door(s) can be closed completely, concealing the vehicle during the loading and unloading of cannabis product; and
    - iv. That the roll-up door(s) remain closed and locked when not in use; and
    - v. All loading and unloading of cannabis occurs inside of the building with the roll-up door closed.
  - 7) All exterior doors shall remain locked and be accessible for operation by employees only, and all windows shall be secured against entry from the outside. Exterior doors shall be properly equipped with panic hardware as required by all applicable state codes.
  - 8) All cannabis present or kept at the premises shall be securely stored against both unauthorized access as well as theft.
  - 9) Cannabis and cannabis products prepared for delivery shall be stored in secure containers within the trunk of the delivery vehicle during delivery.
- D. Odor Control. A delivery dispensary shall have an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the delivery dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the delivery dispensary is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the delivery dispensary, if the use only occupies a portion of a building.
- E. Records.
- 1) Delivery dispensaries shall maintain records reflecting:
    - a. The full name, address, and telephone number(s) of the owner and lessee of the property.
    - b. The full name, address, and telephone number(s) of all employees.
    - c. The delivery of medical cannabis, including but not limited to the identity of the recipient using the unique identifier supplied to them by the state, the amount delivered, the date of the delivery, the address of the delivery, the name of the employee making the delivery, and a written receipt confirming the delivery by signature of the receiving person(s).
    - d. A written accounting of all expenditures, costs, revenues and profits of the delivery dispensary.
    - e. A copy of the delivery dispensary's required insurance policy and all other insurance policies related to the operation of the delivery dispensary.

## ATTACHMENT 2

- f. An inventory record documenting the dates and amounts of medical cannabis received at the medical cannabis dispensary, the daily amounts of medical cannabis stored at the location of the medical cannabis dispensary, and the daily amounts distributed.
  - g. Proof of a valid and current permit issued by the City in accordance with this chapter. Every medical cannabis dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place.
- 2) Records shall be maintained on-site, either in paper or electronic form, and secured and verified by the Director as needed (consistent with requirements pertaining to patient confidentiality pursuant to applicable State and Federal law).
  - 3) All records required to be maintained by the delivery dispensary must be maintained for no less than 3 years and are subject to immediate inspection upon written request by the Director.

### F. Insurance.

- 1) A delivery dispensary shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to the Director, the following policies of insurance in the amounts and of the types that are acceptable to the Director, with minimal coverage provided of:
- 2) Throughout the life of the License, the Licensee shall pay for and maintain in full force and effect all policies of insurance required hereunder with an insurance company(ies) either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VIII" in Best's Insurance Rating Guide, or (ii) authorized by City Manager or his/her designee and in his/her sole discretion. The following policies of insurance are required:
- 3) COMMERCIAL GENERAL LIABILITY insurance which shall be at least as broad as the most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 and include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including, without limitation, indemnity obligations under the Contract) with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage, \$1,000,000 per occurrence for personal and advertising injury, \$2,000,000 aggregate for products and completed operations and \$2,000,000 general aggregate.
- 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 "any auto" with limits of liability of not less than \$1,000,000 per accident for bodily and property damage.
- 5) WORKERS' COMPENSATION insurance as required under the California Labor Code.
- 6) EMPLOYERS' LIABILITY insurance with minimum limits of \$1,000,000 each accident, \$1,000,000 disease each employee and \$1,000,000 disease policy limit.
- 7) Licensee shall be responsible for payment of any deductibles or self-insured retentions contained in any insurance policies required hereunder.
- 8) All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after thirty (30)

## ATTACHMENT 2

calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker or agent of a notice of cancellation, non-renewal or reduction in coverage or limits, Licensee shall furnish City with a new certificate and applicable endorsements for such policy(ies). In the event any policy(ies) is due to expire during the License, Licensee shall provide a new certificate and all applicable endorsements evidencing renewal of such policy(ies) not less than 15 calendar days prior to the expiration date of the expiring policy(ies).

- 9) The General Liability (including ongoing operations, and products, and completed operations) and Automobile Liability insurance policies shall be endorsed to name the City and its officers, officials, employees, agents and volunteers as an additional insured. Such policy(ies) of insurance shall be endorsed so Permittee's insurance shall be primary and no contribution shall be required of City, its officers, officials, employees, agents and volunteers. Any Workers' Compensation insurance policy shall contain a waiver of subrogation as to City, its officers, officials, employees and agents. The coverage shall contain no special limitations on the scope of protection afforded to City and its officers, officials, employees, agents and volunteers. Should Licensee maintain insurance with broader coverage and/or limits of liability greater than those shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits of liability maintained by the Licensee. Licensee shall furnish City with the certificate(s) and applicable endorsements for ALL required insurance fourteen (14) days prior to the issuance of the Permit.
- 10) If the General Liability insurance policy is written on a claims-made form:
  1. The retroactive date must be shown, and must be before the effective date of the Agreement or the commencement of work by Consultant.
  2. Insurance must be maintained and evidence of insurance must be provided for at least 3 years after any expiration or termination of the Agreement or, in the alternative, the policy shall be endorsed to provide not less than a 3-year discovery period.
  3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement or the commencement of work by Consultant, Consultant must purchase extended reporting coverage for a minimum of 3 years following the expiration or termination of the Agreement.
  4. A copy of the claims reporting requirements must be submitted to City for review.
  5. These requirements shall survive expiration or termination of the Ordinance.
- 11) Upon request of City, Licensee shall immediately furnish City with a complete copy of any insurance policy required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive the expiration or revocation of the License.
- 12) If at any time during the license, Licensee fails to maintain the required insurance in full force and effect, all work licensed thereunder shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that

## ATTACHMENT 2

the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for the City to revoke the License.

- 13) NOTE: The Certificate of insurance must be accompanied by the additional insured, primary insurance and waiver of subrogation endorsements, as required above.
  - 14) All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with the above policies of insurance.
  - 15) No permit may be issued pursuant to this chapter until the applicant for a medical cannabis dispensary permit has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time.
- G. The regulations contained in this chapter shall not apply to a medical cannabis dispensary engaged in the following uses, as long as such use complies strictly with applicable law regulating such use and the location of such use, including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et seq.; a clinic permitted pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility permitted pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness permitted pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice; or a home health agency permitted pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

### 5.50.110 - Fees

- A. Fees. An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter. The City Council is authorized to pass resolutions to recover any and all fees and costs incurred by the implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon delivery dispensaries and their operations.
- B. State Board of Equalization Seller's Permit required. The State Board of Equalization has determined that medical cannabis transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical cannabis must obtain a Seller's Permit from the State Board of Equalization.

### 5.50.120 - Public Nuisance and Abatement

In addition to the penalties set forth in this chapter, any delivery dispensary that is operating in violation of any provisions of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 1.12 (Municipal Code Enforcement) of Title 1 (General Provisions) of the Hesperia Municipal Code.

### 5.50.130 – Suspension and Revocation

- A. The Director is authorized to suspend and/or revoke delivery dispensary permits issued pursuant to this chapter upon the determination through written findings of a failure to comply with any provision of this chapter, any condition of approval, or any agreement or covenant as required pursuant to this chapter.
- B. The Director may suspend or revoke a delivery dispensary permit if any of the following occur:

## ATTACHMENT 2

- 1) The Director determines that the delivery dispensary has failed to comply with any aspect of this chapter, any condition or approval, or any agreement or covenant as required pursuant to this chapter; or
  - 2) Operations cease for more than 180 calendar days (including during any change of ownership, if applicable); or
  - 3) Ownership is changed without securing a new delivery dispensary permit; or
  - 4) The delivery dispensary fails to maintain required security camera recordings; or
  - 5) The delivery dispensary fails to allow inspection of the security recordings, the activity logs, the records, or of the premise by authorized City officials.
- C. Conditions (if any) of suspension or revocation are at the discretion of the Director and may include, but are not limited to, a prohibition on all owners, operators and employees of the suspended or revoked delivery dispensary from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the Director's determination) for the holder of the suspended or revoked delivery dispensary permit to resubmit an application for a delivery dispensary permit pursuant to the requirements of this chapter.
- D. Suspension or revocation of a delivery dispensary permit pursuant to this chapter shall constitute a "revocation" for purposes of Business & Professions Code section 19320.

### 5.50.140 - Nonconforming Use

No use which purports to have distributed cannabis prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Hesperia Zoning Code, the Hesperia Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.