

ORDINANCE 2016-7

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA AMENDING CHAPTERS 18.02 AND 18.06 OF THE VISTA DEVELOPMENT CODE AS THEY RELATE TO MARIJUANA LAND USES

The City Council of the City of Vista does ordain as follows:

1. **Findings.** The City Council hereby finds and declares all of the following:

A. Pursuant to Article XI Section 7 of the California Constitution, a city may make and enforce within its limits all police, sanitary and other ordinances that are not in conflict with general laws.

B. Law enforcement, city residents and other members of the public have reported adverse impacts from the presence of marijuana-related land use and medical marijuana businesses in the City, including, but not limited to, offensive odors, negative impacts upon neighboring businesses, fires, increased burglaries and other acts of violence in connection with such activity.

C. The Vista Development Code authorizes a variety of enforcement actions against all persons and entities responsible for unlawfully establishing a marijuana-related use, medical marijuana land use, or medical marijuana business within Vista, including summary abatement of the medical marijuana land use or medical marijuana business as a public nuisance.

D. Enforcement of these laws has occurred in a manner to protect the public health, safety and welfare of the community and should continue in that manner.

2. **Code Amendment.**

A. Section 18.02.246 of the Vista Development Code is added to read as follows:

“**Cultivation**’ or ‘**cultivates**’ means any activity, whether indoors or outdoors, involving the planting (whether in soil or by other means), growing, tending, watering, curing, grading, drying, trimming, clipping or processing of any kind or size of marijuana plants, or any part thereof.”

B. Paragraph D of Section 18.06.105 of the Vista Development Code is amended to read as follows:

“A person operates or materially contributes to an unlawful use if the person: (1) is an on-site manager of the unlawful use during any period that the unlawful business is open; (2) is financially, contractually or otherwise legally responsible for any aspect of the operation of the illegal use (including but limited to payment of utilities, advertising, rent, mortgage or other operating costs); (3) is hired to provide or otherwise provides security at or for the unlawful use; (4) has been previously notified to cease and desist working for or providing services for or at a same or similar unlawful use, and/or cited, arrested or criminally charged for working or providing services for or at a same or similar unlawful use,

and thereafter works for or provides services for a same or similar unlawful use; or, (5) is a key employee or worker (whether for compensation or as a volunteer) at or for the unlawful use. For purposes of this paragraph, a key employee or worker is a person who provides on-site work, efforts or services for the benefit of the unlawful use (whether or not hired by the unlawful use as an employee or serving as an unpaid volunteer) during a period when there are no more than two key employees or workers present at the site of the unlawful use (other than security) who are performing work or services for the benefit of the unlawful use.”

- C. Paragraph C of Section 18.06.107 of the Vista Development Code is amended to read as follows:

“It shall be unlawful for any person or entity who owns, is in charge of, manages, acts as an owner’s agent of, possesses or otherwise controls real property anywhere in the city, to lease, rent, permit or allow to be used, any building, structure, facility, premises, land or location for a marijuana-related use or medical marijuana land use or business.”

- D. Section 18.06.109 of the Vista Development Code is added as follows:

“Section 18.06.109 Public Nuisance

Any marijuana-related use, medical marijuana land use, or business or other use or activity caused or permitted to exist in violation of this Chapter is injurious to the public health, safety and welfare of the community and shall be and is hereby declared a public nuisance. Violations of this Chapter may be enforced by any applicable laws or ordinances, including, but not limited to, summary abatement by the city pursuant to Chapter 1.16 of this Code, California Code of Civil Procedure Section 731, or by any other administrative, civil or criminal law or remedy available to the City.”

3. Severability. If any word, sentence, paragraph, or other portion of this ordinance is deemed to be invalid or unenforceable for any reason by a court of competent jurisdiction, the City Council declares its intent that all remaining words, sentences, paragraphs or portions of the ordinance not held to be invalid or unenforceable shall remain in full force and effect, and shall be so construed, as if the original ordinance did not contain the invalid or unenforceable language.

4. Effective Date. This ordinance shall be in full force and effect on the 31st day following the date of its adoption.

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5. Adoption. INTRODUCED at a meeting of the City Council held on April 26, 2016, and ADOPTED at a meeting held on May 10, 2016, by the following vote:

AYES: Mayor Ritter, Aguilera, Franklin

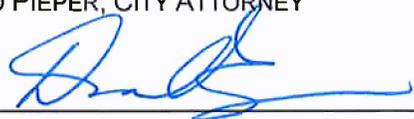
NOES: Campbell, Rigby

ABSTAIN: None



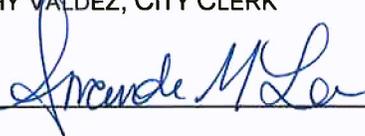
JUDY RITTER, MAYOR

APPROVED AS TO FORM:
DAROLD PIEPER, CITY ATTORNEY

By: 

APPROVED
Darold Pieper
20160427082404

ATTEST:
KATHY VALDEZ, CITY CLERK

for 
By: _____

CERTIFICATION

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2016-7 to be posted on May 12, 2016, at the following locations within the City of Vista: 1) the Reference Desk of the Vista Branch of the San Diego County Public Library, 700 Eucalyptus Avenue; 2) the Lobby Counter at the Gloria McClellan Adult Activity & Resource Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.



Kathy Valdez, City Clerk