ORDINANCE NO. 2018-

AN ORDINANCE OF THE PEOPLE OF THE CITY OF VISTA, CALIFORNIA, ESTABLISHING A TAX ON COMMERCIAL MARIJUANA PRODUCTION AND SALES AND AMENDING TITLE 5 OF THE VISTA MUNICIPAL CODE TO ADD CHAPTER 7.10 ENTITLED “CANNABIS BUSINESS TAX”

The People of the City of Vista, California, do ordain as follows:

1. Findings. The People hereby find and declare the following:

   A. Cannabis (marijuana) businesses are currently prohibited in the City of Vista, but future action by the state legislature, the voters, or the city council, could permit one or more types of cannabis businesses to operate in the City.

   B. The City does not currently have a structure in place to tax cannabis businesses in a manner sufficient to offset their impacts on the quality of life in the City, including impacts on the safety of neighborhoods, law enforcement and fire protection, fast and effective emergency medical services, traffic, parking, and other vital community services.

   C. The People of Vista hereby intend to create a taxing structure applicable to potential cannabis business that might become legal in the City.

   D. The People of Vista do not intend hereby to legalize cannabis businesses in the City, and nothing contained herein shall be construed to modify or amend the City’s current ordinances, resolutions, and policies prohibiting cannabis businesses in the City.

   E. The People of Vista do not intend hereby to tax or regulate the personal use or cultivation of cannabis as authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

2. Code Amendment.

   A. Title 7 (Cannabis Regulation) is amended to add Chapter 7.10 (Cannabis Business Tax), as follows:

   “Chapter 7.10
   CANNABIS BUSINESS TAX
   Sections:
   7.10.005 Title
   7.10.010 General tax
   7.10.015 Purpose of the ordinance
   7.10.020 Definitions
   7.10.025 Tax imposed
   7.10.030 Reporting and remittance of tax
   7.10.050 Penalties and interest
   7.10.065 Exemptions from the tax
   7.10.070 Administration of tax
7.10.005 Title

This Chapter shall be known as the Cannabis Business Tax Ordinance and shall be applicable in the City of Vista, California (“City”).

7.10.010 Authority and Purpose

A. The purpose of this Chapter is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon Cannabis Businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant Canopy. It is not a sales and use tax, a tax upon income, or a tax upon real property.

B. The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and be available for any lawful municipal expenditure.

7.10.015 Intent

The intent of this Chapter is to levy a tax on Cannabis Businesses that may become legal subsequent to the adoption of this Ordinance or that otherwise operate in the City. Nothing in this Chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

7.10.020 Definitions

The following words and phrases shall have the meanings set forth below when used in this Chapter. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any references to State Laws, including references to any California statutes or regulations, is deemed to include any successor or amended version of the referenced statute or regulations promulgated thereunder consistent with the terms of this Chapter.

“Adult-Use Cannabis” or “Adult-Use Cannabis Product” means Cannabis or Cannabis Products for individuals 21 years of age and over without the need for a physician’s recommendation.
"Business" means all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to that employee’s employer.

"Cannabis" means, except as specified herein, all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

"Cannabis Concentrate" means Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. Cannabis Concentrate does not include any product intended for oral ingestion by the final consumer. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

"Cannabis Product" means Cannabis that has undergone a process whereby the plant material has been concentrated and, with or without the addition of ingredients, been transformed into a product for sale. Cannabis products include but are not limited to: Cannabis Concentrate, Edible Cannabis Products, Topical Cannabis, or an inhalant containing Cannabis or Cannabis Product.

"Canopy" means the designated area(s) at a City Licensed Premises, except nurseries, that contain growing or mature Cannabis plants at any point in time. The Canopy for each Premises shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain growing or mature plants at any point in time, including any and all space(s) within such boundaries. The Canopy for any Premises may be noncontiguous provided that each unique area included in the total Canopy calculation for any Premises shall be separated by an identifiable boundary. Identifiable boundaries may include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, or fencing. If plants are being cultivated using a shelving system, the surface of each level shall be included in the total Canopy calculation.

"Cannabis Business or Commercial Cannabis Business" means any business or operation which engages in Medicinal or Adult-Use Commercial Cannabis Activity whether or not carried on for gain or profit.

"Cannabis Business Tax or Marijuana Business Tax" means "means " means the tax due pursuant to this Chapter for engaging in commercial cannabis or marijuana business in the City.

"Canopy" means the designated area(s) at a City Licensed Premises, except nurseries, that contain growing or mature Cannabis plants at any point in
The Canopy for each Premises shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain growing or mature plants at any point in time, including any and all space(s) within such boundaries. The Canopy for any Premises may be noncontiguous provided that each unique area included in the total Canopy calculation for any Premises shall be separated by an identifiable boundary. Identifiable boundaries may include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, or fencing. If plants are being cultivated using a shelving system, the surface of each level shall be included in the total Canopy calculation.

“City Attorney” means the City Attorney of the City of Vista, or the City Attorney’s designee.

“City Manager” means the City Manager of the City of Vista, or the City Manager’s designee.

“Commercial Cannabis Activity” means the commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of Cannabis or Cannabis Products.


“Commercial Cannabis Cultivation” means cultivation conducted by, for, or as part of a Commercial Cannabis Activity.

“Commercial Cannabis Business Permit” means a regulatory permit issued by the City of Vista pursuant to Title 7 to a commercial cannabis business, and is required before any Commercial Cannabis Activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of the Vista Municipal Code and any regulations adopted by the City governing the Commercial Cannabis Activity at issue.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Customer” means an individual 21 years of age or over, or an individual 18 years of age or older who possesses a physician’s recommendation.

“Delivery” means the commercial transfer of cannabis or cannabis products to a Customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer.

“Distribution” means the procurement, sale, and/or transport of cannabis and cannabis products between licensees.

“Employee” means each person who renders any service, with or without compensation, for the owner, permittee, or agent of either an owner or permittee of a Commercial Cannabis Business. For purposes of this Chapter, the term Employee shall include part-time, full-time, temporary, or regular employees.

“Engaged in business as a cannabis business” means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:
1. Such person or person’s employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person’s employee owns or leases real property within the City for business purposes;
3. Such person or person’s employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
4. Such person or person’s employee regularly conducts solicitation of business within the City; and
5. Such person or person’s employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business.”

“Evidence of doing business” means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

“Fiscal year” means July 1 through June 30 of the following calendar year.

“Gross Receipts” means, except as otherwise specifically provided, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits and property of any kind or nature) received or payable for sales of goods, wares or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer’s business;
5. Cash value of sales, trades or transactions between departments or units of the same business;
6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

8. Retail sales of t-shirts, sweaters, hats, stickers, key chains, bags, books, posters or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per Section 5.94.070 shall not be subject to the cannabis business tax under this chapter. However, any business activities not subject to this Chapter as a result of the administrative ruling shall be subject to the appropriate business tax provisions of Chapter 5.04 or any other Chapter or Title as determined by the Tax Administrator.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Medicinal Cannabis” or “Medicinal Cannabis Product” means Cannabis or a Cannabis Product for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

“Retailer” means a Person that offers Cannabis, Cannabis Products, or devices for the use thereof, either individually or in any combination, for retail sale to Persons.

“Sale” means any sale, exchange, or barter or other transaction for any consideration.

“Square foot or square footage” means the maximum amount of Canopy for commercial cannabis cultivation authorized by a City permit issued to a person engaging in commercial cannabis business shall be the basis for the tax base for cultivation.

“State” means the State of California.

“State Laws” means the laws of the State of California, which includes, but are not limited to, California Health and Safety Code Sections 11000, et seq.; California Health and Safety Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7, et seq.(Medical Marijuana Program); California Health and Safety Code Sections 26000, et seq.(Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)); the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code
Section 13276; all State regulations adopted pursuant to MAUCRSA; and all other applicable laws of the State of California.

“State License or License” means a license issued by the State of California, or one of its departments or divisions, pursuant to California Business & Professions Code Section 26000, et seq., and any subsequent State of California legislation regarding the same, to engage in Commercial Cannabis Activity.

“Tax Administrator” means the Director of Finance of the City of Vista, the Director of Finance’s designee(s), or any other City officer charged with the administration of the provisions of this Chapter.

“Testing laboratory” means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the Cannabis industry in the State; and
2. Licensed by the State.

7.10.025 Tax imposed

A. There is established and imposed upon each person who is engaged in business as a cannabis business an annual Cannabis Business Tax at the rates set forth in this Chapter. Such tax is payable regardless of whether the business has been issued a permit to operate lawfully in the city or is operating unlawfully. The City’s acceptance of a cannabis business tax payment from a cannabis business operating illegally will not constitute the City’s approval or consent to such illegal operations.

B. Medicinal Retailing. The Cannabis Business Tax upon every person who engages in business in the City as a retail Medicinal Cannabis business shall be at the following annual rate:

1. The tax rate upon the effective date of this ordinance shall be five percent (5%) of the gross receipts. Such tax rate may increase or decrease by ordinance or resolution adopted by the City Council but shall not exceed the maximum tax rate of ten percent (10%) without voter approval.

C. Adult-use Retailing. The Cannabis Business Tax upon every person who engages in business in the City as a retail adult-use commercial cannabis business shall be at the following annual rate:

1. The tax rate upon the effective date of this ordinance shall be six percent (6%) of the gross receipts. Such tax rate may increase or decrease by ordinance or resolution adopted by the City Council but shall not exceed the maximum tax rate of twelve percent (12%) without voter approval.

D. Manufacturing. The Cannabis Business Tax upon every person who engages in business in the City as a commercial manufacturing cannabis business shall be at the following annual rate:

1. The tax rate upon the effective date of this ordinance shall be four percent (4%) of the gross receipts. Such tax rate may increase or decrease by ordinance or resolution adopted by the City Council but shall not exceed the maximum tax rate of eight percent (8%) without voter approval.
E. Distribution. The Cannabis Business Tax upon every person who engages in business in the City as a commercial cannabis distribution business shall be at the following annual rate:
   1. The tax rate upon the effective date of this ordinance shall be two percent (2%) of the gross receipts. Such tax rate may increase or decrease by ordinance or resolution adopted by the City Council but shall not exceed the maximum tax rate of eight percent (8%) without voter approval.

F. Testing. The Cannabis Business Tax upon every person who engages in business in the City as a cannabis testing laboratory shall be at the following annual rate:
   1. The tax rate upon the effective date of this ordinance shall be one percent (1%) of the gross receipts. Such tax rate may increase or decrease by ordinance or resolution adopted by the City Council but shall not exceed the maximum tax rate of three and one-half percent (3.5%), without voter approval.

G. Cultivation. The Cannabis Business Tax upon every person who is engaged in commercial cannabis cultivation in the City shall be at the following annual rate:
   1. The tax rate upon the effective date of this ordinance, through June 30, 2020, shall be fourteen dollars ($14.00) per square foot of Canopy space.
   2. Effective July 1, 2020, and on July 1 of each succeeding fiscal year thereafter, the tax rate per square foot of Canopy space shall increase from the tax rate effective in the prior fiscal year by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer Price Index (“CPI”) for All Urban Consumers in the San Diego–Carlsbad, CA, area as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made.
   3. For purposes of this Subsection G the square feet of Canopy space for a business shall be rebuttably presumed to be the maximum square footage of Canopy allowed by the business’s City permit for commercial cannabis cultivation.

7.10.030 Reporting and remittance of tax

The Cannabis Business Tax imposed by this Chapter shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:
   A. Each person owing a Cannabis Business shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Tax Administrator and remit to the Tax Administrator the tax due. The tax due shall be no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year.
   B. Tax statements and payments for all outstanding taxes owed the City are immediately due to the Tax Administrator upon cessation of business for any reason.
C. The Tax Administrator may, at the Tax Administrator's discretion, establish shorter reporting and payment periods for any taxpayer as the Tax Administrator deems necessary to insure collection of the tax.

7.10.050 Non-payment of Cannabis Business Tax; Penalties and interest established by resolution

A. Any person who fails or refuses to pay any Cannabis Business Tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:
   1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent (1.0%) per month.
   2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.
   3. These penalty provisions shall not be construed to preclude or limit the enforcement of the penal provisions of this Chapter.

B. Whenever a check or electronic payment is submitted in payment of a Cannabis Business Tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this Chapter, and any other amount allowed under state law.

7.10.065 Exemptions from the tax

A. The provisions of this Chapter shall not apply to personal cannabis cultivation as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) or any subsequent state legislation regarding the same. This Chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

7.10.070 Administration of the tax

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. The City Council shall cause to be promulgated all municipal ordinances, resolutions, and all other administrative rules, regulations and standards governing Cannabis Business Taxation under this Chapter, including, without limitation:
   1. Payments and Delinquencies;
   2. Notices;
   3. Refunds;
   4. Recordkeeping and Audit Requirements;
   5. Apportionment;
   6. Deficiencies;
7. Assessments; and
8. Appeals.

B. In addition to any regulations adopted by the City Council, the City Manager is authorized to establish, consistent with the terms of this Chapter, any additional administrative rules, regulations and standards governing the administration of Cannabis Taxes; Operational rules and regulations, and any other subject determined to be necessary to carry out the purposes of this Chapter.

7.10.085 Constitutionality and legality

This tax is intended to be applied in a manner consistent with the United States Constitution and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection and due process clauses of the Constitution of the United States or the State of California or a violation of any other provision of the Vista Charter or state law.

7.10.090 Audit and examination of records and equipment

A. The Tax Administrator shall have the power, enforceable by subpoena, to audit and examine all books, records, accounts, inventory and onsite operations of persons engaged in cannabis businesses specific to the Cannabis Business, including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the gross receipts of persons engaged in cannabis businesses, and, where necessary, all equipment, of any person engaged in cannabis businesses in the City, for the purpose of ascertaining the amount of Cannabis Business Tax, if any, required to be paid by the provisions hereof, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this Chapter.

B. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of the later of four years from the due date of the return or the date the return is filed, all records as may be necessary to determine the amount of such tax as that person may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her duly authorized designee shall have the right to inspect at all reasonable times. All records for any period being audited by the City shall be retained until the audit is complete.

C. Authorities designated by the City Manager or the City Attorney may examine the records of the Cannabis Business and inspect the premises of the Cannabis Business as the City Manager or City Attorney deems necessary to enforce any of the provisions of this Chapter. All inspections and examinations of the premises and records shall be conducted during standard business hours of the Cannabis Business or at any other reasonable time. Cannabis Businesses shall provide access to the premises and deliver records to the designated authorities upon request.
7.10.095 Other licenses, permits, taxes, fees or charges.

A Cannabis Business subject to the provisions of this Ordinance shall also be subject to the business tax requirements defined in Chapter 5.04 of the Vista Municipal Code. Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other Chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapters of this code.

7.10.100 Payment of tax does not authorize unlawful conduct

A. The payment of a Cannabis Business Tax required by this Chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable State Laws.

B. No tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

C. Nothing in this Chapter shall be construed as authorizing or condoning any actions that violate federal, state or local law with respect to the operation of a Commercial Cannabis Business.

D. It shall be the responsibility of the City Licensees, Owners, Officers, and Managers of a Commercial Cannabis Business to ensure that a Commercial Cannabis Business is, at all times, operating in a manner compliant with the protection of public health, safety and community standards, including all applicable federal, state, and local laws and regulations, including any subsequently enacted state or local law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of a State License or a City License.

E. Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in State Laws. In the event of a conflict between the provisions of this Chapter and the provisions of State Laws or any other applicable state or local law, the more restrictive provision shall control. To the extent allowed by State Law, the City shall have the right, but not the obligation, to enforce all applicable State Laws.

7.10.130 Conviction for violation — taxes not waived

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal
prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

7.10.135 Violation deemed misdemeanor

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and shall be punishable therefore as provided in Chapter 1.16 of this Code.

7.10.140 Remedies cumulative.

The penalties set forth in this Chapter are cumulative and in addition to all other remedies, violations, and penalties set forth in the City's Code, or in any other ordinance, laws, rules or regulations of the City, County, or the State of California.

7.10.150 Amendment; City Council plenary authority

A. This Chapter may be amended by the City Council without a vote of the people to the extent allowed by law. However, as required by Title XIII C of the California Constitution, voter approval is required for any amendment that would increase, beyond the limits specified in this Chapter, the rate of any tax levied pursuant to this Chapter. The people of the City of Vista affirm that the following actions shall not constitute an increase of the rate of a tax:

1. Increasing the rate of a tax within the limits specified in this Chapter.
2. Restoring the rate of a tax to a rate that is no higher than that set by this Chapter, if the City Council has acted previously to reduce the rate of the tax;
3. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, including the definition of cannabis, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or
4. The collection of a tax imposed by this Chapter, even if the City had, for some period of time, failed to collect the tax.

B. Notwithstanding any other provision of another voter approved initiative measure, the City Council shall have plenary authority to establish, modify, and maintain all municipal ordinances, resolutions, and all other administrative rules, regulations and standards governing the issuance, denial, or renewal of City Licenses, including without limitation, the number, types, and locations thereof, if any; the City's oversight of the ongoing operation of Commercial Cannabis Businesses; operational rules and regulations, and any other subject determined to be necessary to regulate or prohibit the legal or illegal sale of cannabis in the City of Vista."

3. Conflicting Measures. The People of the City of Vista find and declare that the provisions of this Ordinance relating to both taxation and the City Council's plenary power to regulate cannabis sales in the City of Vista, may conflict with one or more provisions of other initiative measures. It is the intent of the People that if this Ordinance receives a greater number of affirmative votes than a conflicting measure at the November 6, 2018, general election, this Ordinance shall prevail in its entirety over a conflicting measure.
4. **Severability.** If any provision, section, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid, illegal or unconstitutional by any final action in a court of competent jurisdiction or by reason or any preemptive legislation, such unconstitutionality illegality or invalidity shall only affect such provision, section, paragraph, sentence, phrase or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. The provisions granting plenary authority to the City Council to regulate cannabis in the City of Vista are expressly made severable from the remainder of the Ordinance. It is hereby declared to be the intention of the City that that the Ordinance would have been adopted had such unconstitutional illegal or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

5. **Effective Date.** This ordinance shall be in full force and effect upon the tenth day following certification by the City Council of the election returns indicating passage of this Ordinance by a majority of the voters casting votes on the measure.

APPROVED
Darold Pieper
20180606151648