

ORDINANCE NO. 2018-

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF VISTA, CALIFORNIA,
AMENDING TITLE 7 OF THE VISTA MUNICIPAL CODE TO ADD
CHAPTER 7.20 ENTITLED “MEDICINAL CANNABIS BUSINESSES”**

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

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

A. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California State Legislature in June 2017, established a set of laws regulating both individual and commercial medicinal and adult-use cannabis activity throughout the State of California.

B. In response to changes in California law, and in an effort to mitigate the negative impacts brought by unregulated cannabis businesses, the People now desire to permit, license, and fully regulate commercial cannabis activity in the City.

C. Current State regulations are in the form of emergency regulations, and it is unknown when final regulations will be adopted or how they will differ from the emergency regulations. It is also unknown how current and future regulations will work in practice. Accordingly, it is necessary for the City Council to be able to react to future changes in State law and regulations, and lessons learned as these are implemented at the local level, by having the authority to amend Vista’s ordinances and regulations.

2. Code Amendment.

A. Title 7 is amended to add Chapter 7.20 (Medicinal Cannabis Businesses), as follows:

“Chapter 7.20

MEDICINAL CANNABIS BUSINESSES

Sections:

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7.20.140 Amendment; City Council Plenary Authority

7.20.005 Title

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

7.20.010 Purpose

A. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California Legislature in June 2017, established a set of laws regulating both individual and commercial medicinal and adult-use cannabis activity throughout the State of California. Under California law, local jurisdictions are authorized to either permit or prohibit the Operation of cannabis businesses within their boundaries.

B. The City has experienced the negative impacts and secondary effects associated with the Operation of unlawful cannabis businesses within its corporate boundaries. Unregulated businesses remain a source of danger and disruption for City residents and businesses. In response to changes in California law, and in an effort to mitigate the negative impacts brought by unregulated Commercial Cannabis Activity, the People of the City now intend to permit, license, and fully regulate Commercial Cannabis Activities within the City.

7.20.020 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.

"Advertise" means to publish or disseminate an Advertisement.

"Advertisement" means any written or verbal statement, illustration, or depiction which is calculated to induce sales of Cannabis or Cannabis Products, including without limitation: any written, printed, graphic, or other material; billboard, sign, or other outdoor, digital, indoor or point-of-sale display; individual carrying a display; public transit card, other periodical, literature or publication, or in any similar media; except that such term shall not include:

1. Any label affixed to any Cannabis or Cannabis Products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling.

2. Any editorial story, or other information (e.g., news release) in any periodical, publication or newspaper either in print or electronic format, for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any City Licensee or Person engaged in Commercial

Cannabis Activity, and which is not written by or at the direction of a City Licensee or Person engaged in Commercial Cannabis Activity.

“Applicant” means the Owner or Owners applying for a City License pursuant to this Chapter.

“Attractive to Youth” means products, packaging, labeling, or Advertisements that are reasonably likely to encourage individuals under age 21 to initiate cannabis consumption or otherwise to accidentally or purposely consume Cannabis or Cannabis Products. Attractive to Youth items include:

1. Products that resemble a non-Cannabis consumer product of a type that is typically consumed by, or marketed to Youth, such as a specific candy or baked treat.

2. Packaging or labeling that resembles packaging or labeling of a non-Cannabis consumer product of a type that is typically consumed by or marketed to Youth.

3. Packaging or labeling that contains images, characters, or phrases that closely resemble images, characters, or phrases popularly used to advertise to Youth.

4. Advertising that mimics Advertising of a non-cannabis consumer product of a type that is typically consumed by, or marketed to Youth.

5. Advertising that contains images, characters, or phrases that closely resemble images, characters, or phrases popularly used to advertise to Youth.

“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.

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

“City License” means the regulatory license issued by the City pursuant to this Chapter to a Commercial Cannabis Business that must be obtained prior to the commencement of any Commercial Cannabis Activity in the City.

“City Licensee” means any Person holding a City License.

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

“Code” means the City of Vista Municipal Code, inclusive of the Development Code.

“Commercial Cannabis Activity” means the commercial possession, laboratory testing, delivery or sale of Cannabis or Cannabis Products.

“Commercial Cannabis Business” or **“Cannabis Business”** means any Person lawfully engaged in a Commercial Cannabis Activity.

“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.

“Day Care Center” has the same meaning as in Section 1596.76 of the California Health and Safety Code.

“Delivery” means the commercial transfer of Cannabis or Cannabis Products from a Non-Storefront Retailer Premises to a Customer at a physical address. Delivery also includes the use by a Non-Storefront Retailer of any technology platform to facilitate Delivery.

“Development Director” means the City’s Director of Community Development/Engineering, or the Director’s designee.

“Edible Cannabis Product” means a Cannabis Product that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. Edible Cannabis Product has the same meaning as California Business and Professions Code section 26001.

“Existing Residential Use” means a residential Pipeline Project or lawfully constructed structure or project intended for residential use within a Residential Zone.

“Licensee” means any Person holding a State License and a City License.

“Manager” means any individual Person(s) designated by a Commercial Cannabis Business to manage day-to-day Operations of the Commercial Cannabis Business or any Person acting with apparent management authority. Evidence of management authority includes, but is not limited to, evidence that the Person has the power to direct, supervise, or hire and dismiss employees, control hours of Operation, create policy rules, or purchase supplies.

“Marketing” means any act or process of promoting or selling Cannabis or Cannabis Products, including, but not limited to, sponsorship of events, offers such as tickets to events, point-of-sale advertising, branded merchandise, pamphlets or product promotion materials.

“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.

“Medicinal License” means a State License for Commercial Cannabis Activity involving Medicinal Cannabis.

“Medicinal Licensee” means a Person holding a Medicinal License.

“Minor” means an individual under 18 years of age.

“Non-Storefront Retailer” means a Person that offers Cannabis, Cannabis Products, or devices for the use of Cannabis or Cannabis Products, either individually or in any combination, for retail Sale to Customers exclusively by Delivery (Type 9). A City License is required to operate a Non-Storefront Retail Business pursuant to 7.20.030.

“Officer” means any of the following:

1. The chief executive officer of an entity engaged in a Commercial Cannabis Business.
2. A member of the board of directors of an entity engaged in a Commercial Cannabis Business.
3. A Person participating in the direction or control of an Applicant for a City License or any Owner of a Commercial Cannabis Business within the City.

“Owner” means any of the following:

1. In the context of a Commercial Cannabis Business, a Person with an aggregate ownership interest, direct or indirect, of ten percent (10%) or more in a Commercial Cannabis Business, whether a partner, shareholder, member, or the like, including any security, lien, or encumbrance in an ownership interest that, upon default, could become an ownership interest of 10% or more in a Commercial Cannabis Business.
2. In the context of a Premises, a Person with an aggregate ownership or long-term lease interest, direct or indirect, of ten percent (10%) or more in the Premises, whether as a partner, shareholder, member, joint tenant or the like.

“Operation” means any act for which licensure is required under the provisions of this Chapter or State Laws, or any commercial transfer of Cannabis or Cannabis Product.

“Person” means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination of persons acting as a unit.

“Pipeline Project” means a proposed use or project for which the City has received all required applications, and required supporting information and documents, and which has been entered into the City’s project tracking system.

“Premises” for Commercial Cannabis Activity means the designated structure or structures and land, or portions thereof, specified in an application for a City License or, if a City License is issued, that is owned, leased, or otherwise held under the control of the City Licensee, and is designated as the structure or structures and land, or portions thereof where the Commercial Cannabis Activity will be or is conducted.

“Private Parks” means privately owned outdoor premises, available for community use, containing recreational areas or playground equipment, including tot-lots, swings, or similar equipment, designed for use by Minors. Where a Private Park is located within a parcel containing other uses, the Private Park premises shall be defined as the area within which all recreational areas or playground equipment designed for use by Minors is contained.

“Public Parks” means outdoor premises containing existing or proposed parks, including community parks, neighborhood parks, mini-parks, and urban

parks that are currently or proposed to be owned or operated by the City or other governmental agency.

“Residential Zone” means an A-1, E-1, M-U, MHP, R-1, R-1-B, R-M, PC, or PRD zone, or an equivalent residential zone within a City of Vista approved Sectional Planning Area plan or Specific Plan, in each case within which residential uses are allowed by right.

“Sell” and **“Sale”** mean any transaction whereby, for any consideration, title to Cannabis or Cannabis Products is transferred from one person to another, and includes the Delivery of Cannabis or Cannabis Products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same.

“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” means a license issued by the State of California, or one of its departments or divisions, under State Laws to engage in Commercial Cannabis Activity. License includes licenses for medicinal use, as defined by States Laws.

“State Licensee” means any Person holding a State License.

“Testing Laboratory” means a laboratory, facility, or entity in the State that offers or performs tests 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.

A City License is required to operate a Testing Laboratory pursuant to 7.20.030.

“Testor” means a Licensee that offers or performs tests of Cannabis or Cannabis Products at a Testing Laboratory.

“Topical Cannabis” means a product intended for external application and/or absorption through the skin. A Topical Cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

“Treatment Center” means a medical treatment or counseling facility licensed by the California Department of Health Care Services and located outside of a residential zone that treats five or more persons with substance abuse conditions in one calendar year.

“Youth” means an individual under 21 years of age.

“Youth Center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

“Youth-Oriented Business” means any for-profit or non-profit business where the majority of individuals who patronize, congregate, or assemble at the business location are less than 21 years old.

7.20.030 City License Required

A. No Person may engage in any Commercial Cannabis Business and/or in any Commercial Cannabis Activity within the City unless that Person: (1) has a valid State License authorizing such business or activity; (2) has a valid City License authorizing such business or activity; and (3) is currently in compliance with all other applicable state and local laws and regulations pertaining to such business or activity. No City License will be available for issuance until, at the earliest, April 1, 2019. Except as expressly authorized in this Chapter, all Commercial Cannabis Businesses and Commercial Cannabis Activities are prohibited within the City.

B. Notwithstanding the foregoing, the Delivery of Cannabis or Cannabis Product originating from a Commercial Cannabis Business licensed in accordance with California Business and Professions Code section 26050(a)(17) is permitted without a City License, so long as (i) the Delivery originates from a licensed Commercial Cannabis Business outside the City of Vista; (ii) the Commercial Cannabis Business holds a current City of Vista business license; (iii) Delivery is conducted in accordance with all codified and administrative state and local laws and regulations, including but not limited to the municipal ordinances, resolutions, and all other administrative rules, regulations and standards governing delivery City of Vista; and (iv) any taxes imposed by the City of Vista on Delivery are paid.

C. A non-interest bearing cash deposit of one hundred thousand dollars (\$100,000.00) must be made with each application for a City License. This deposit may be used by the City, in its sole discretion, to pay any unpaid taxes, fees, citations or penalties of any nature imposed by any provision of the Business Municipal Code or the Vista Development Code. This cash deposit shall be maintained and replenished as necessary until the City License is surrendered. Failure to replenish the deposit following demand by the City shall be grounds for suspension of the City License.

7.20.040 Maximum Number and Types of Authorized City Licenses

Commencing January 1, 2019, the authorized number of City Licenses for each type of Commercial Cannabis Business available for issuance within the City shall be as follows:

A. Non-Storefront Retailer Licenses: Three (3) Non-Storefront Retailer (Type 9 license for delivery only). Hours of operation shall not exceed 9:00 a.m. to 9:00 p.m. daily.

B. Other License Types: The City is also authorized to issue, with the numerical limits set forth below, City Licenses for the following Commercial Cannabis Businesses:

1. Two (2) Testing Laboratory (Type 8).

C. All City Licenses except Testing Laboratory shall be limited to Medicinal Licensees.

D. No City License shall issue for any Commercial Cannabis Business type other than those identified in subsections (A) through (C) above.

E. The City Council may make a referral to the City Manager at any time for a recommendation on if and how the City should decrease the total number of City Licenses for any or all types of Commercial Cannabis Businesses. If the City Council proceeds with a decrease in the total number of City Licenses for any or all types of Commercial Cannabis Businesses within the City, any such action shall include provisions for determining which, if any, existing City Licenses shall be eliminated and when Operations for eliminated City Licenses shall cease.

7.20.050 Location Requirements for Cannabis Businesses

As set forth above in Code Section 7.20.040, a limited number of City Licenses for Commercial Cannabis Businesses shall be authorized and issued by the City. In locating such businesses, City Licensees shall be further subject to the following requirements.

A. In General. The licensed Premises of a Commercial Cannabis Business shall be a contiguous, fully enclosed area and shall be occupied only by one Licensee.

B. Allowed Zones. Subject to the separation requirements set forth below, Commercial Cannabis Businesses shall only be allowed in the following zones: Industrial Park Zone (IP); Light Manufacturing Zone (M-1); Area B of the Vista Business Park Specific Plan; and Specific Plan 14.

C. Separation Requirements.

1. Commercial Cannabis Businesses shall not be located within 1,000 feet of any Day Care Center; any public or private school providing instruction for kindergarten or any grades 1 through 12; Treatment Facility; Youth Center; Youth-Oriented Business; Public Park; Private Park; Homeless Shelter; or Skate Park.

2. Commercial Cannabis Businesses shall not be located within 500 feet of any Residential Zone.

D. Other Applicable Zoning Requirements.

1. Industrial Use Requirements Apply. Non-Storefront Retailers are industrial uses for the purpose of the Code. Except as otherwise provided in this Chapter, all industrial use requirements for the allowed zone in which the business is located shall apply.

2. Industrial Use Requirements Apply. Testing Laboratories are industrial uses for the purpose of the Code. Except as otherwise provided in this Chapter, all industrial use requirements for the allowed zone in which the business is located shall apply.

E. Standards for Measurement of Separation Distances.

1. Measurement. Separation distances between uses shall be measured as a radius from the point located on the legal parcel boundary that is

closest to the point located on the legal parcel boundary of the Commercial Cannabis Business at issue.

2. Interpretations and Determinations. Interpretations and determinations of compliance with the requirements of this section and the calculation of separation distances shall be made by the Development Director. Exhibits from a Licensed Land Surveyor, employed by the City at the expense of the prospective Licensee, may be required by the City to make a final decision on compliance with the separation requirements of this subsection.

7.20.060 Promulgation of Regulations, Standards, and Other Legal Duties

A. The City Council shall cause to be promulgated all municipal ordinances, resolutions, and all other administrative rules, regulations and standards governing City Licenses under this Chapter, including, without limitation:

1. Issuance of Licenses;
2. Operating and Conduct Standards;
3. Security Standards;
4. Recordkeeping and Audit Requirements;
5. Expiration and Renewal of Licenses;
6. Suspension, Revocation and Termination of Licenses; and
7. Community Relations Requirements.

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 issuance, denial or renewal of City Licenses; 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 carry out the purposes of this Chapter.

C. Regulations shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.

D. Regulations promulgated by the City Council or the City Manager shall become effective and enforceable upon date of publication on the City's website or with respect to existing City Licensees, upon the date specified in a written notice to the City Licensee.

7.20.070 Cannabis Products Attractive to Youth Prohibited

A. Cannabis Products that are, or are manufactured or packaged and designed to be, attractive to individuals under the age of 21, including but not limited to:

1. Cartoon likenesses;
2. Any likeness to images, characters, or phrases that are popularly used to advertise to children;
3. Any imitation of candy packaging or labeling;
4. The terms "candy" or "candies."
5. Any cannabis product or packaging that the City determines, on a case-by-case basis, is attractive to children;

6. Any cannabis product that the City determines, on a case-by-case basis, is easily confused with commercially available foods that do not contain cannabis; and

7. Any cannabis product in the shape of a human being, either realistic or caricature, animal, insect, or fruit.

7.20.080 Advertising and Marketing of Cannabis

A. It is illegal to Market or Advertise within the City Cannabis or Cannabis Products that are not permitted to be sold in the City under State Law or this Chapter.

B. Advertising or Marketing is prohibited in the City on any sign located within 1,000 feet of a Day Care Center; school providing instruction in kindergarten or any grades 1 through 12; Youth Center; Youth-Oriented Facility; or Private or Public Park.

C. Advertising or Marketing is prohibited in the City on any sign within 1,000 feet of a Treatment Center or within 500 feet of any Residential Zone.

D. Advertising or Marketing in the City shall not contain a depiction of an individual under 21 years of age consuming Cannabis or Cannabis Products.

E. Advertising or Marketing in the City shall not be Attractive to Youth.

F. Advertising or Marketing in the City in a manner that is false or untrue or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression, is prohibited.

G. Advertisements or Marketing in the City shall not contain any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

7.20.090 Right of Access & Testing

A. City officials, employees, and their designees authorized to enforce the provisions of the Code shall have full access to the Premises and records of every Commercial Cannabis Business in order to:

1. Inspect the Premises for compliance with the Code and State Laws, including Building Code and Fire Code compliance.

2. Test any equipment possessed by, in control of, or used by a City Licensee, Owner, Officer, or Manager, and any other employee, agent, or volunteer of a City Licensee.

3. Test any Cannabis or Cannabis Product possessed by, in control of, or used by a City Licensee, Owner, Officer or Manager, and any other employee, agent, or volunteer of a City Licensee.

4. Copy any materials, books, or records of any City Licensee, Owner, Officer, or Manager, and any other employee, agent, or volunteer of a City Licensee.

B. Failure by any City Licensee, Owner, Officer or Manager to cooperate and participate in any City inspection or investigation under this section shall itself be a violation of this Chapter.

C. City officials, employees, and their designees authorized to enforce the provisions of the Code shall have rights of access under subsection (A) during any inspection, investigation, review, audit, or as otherwise allowed by law.

D. Prior notice of an inspection, investigation, review, or audit is not required.

E. Any inspection, investigation, review, or audit of a City Licensed Premises shall be conducted anytime the City Licensee is exercising privileges under the City License, or as otherwise agreed to by the City or its Manager.

F. This subsection shall not be construed to deprive a City Licensee, Owner, Officer, or Manager, or any other employee, agent, or volunteer of a City Licensee of any privileged guaranteed by the Constitutions of the United States and/or the State of California, or any other statutory privileges.

7.20.100 Compliance with All Applicable Laws Required

A. 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.

B. 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 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.

C. 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.

7.20.110 Limitations on City's Liability; Licensee's Indemnity Obligations

To the maximum extent allowed by law, the City shall not incur or assume any direct or indirect liability to any Applicant, government agency, or third party as a result of having issued a City License pursuant to this Chapter, or otherwise approving the Operation of any Commercial Cannabis Business. As a condition to the issuance of any City License, the Applicant shall be required to enter into and fulfill all requirements of an agreement, in a form approved by the City Attorney, whereby all Owners agree to (a) indemnify, protect, defend (at Owner's sole cost and expense), and hold harmless the City, and its officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities or losses that arise out of, or that are in any way related to, the City's issuance of the City License, the City's decision to approve the Operation of the Commercial Cannabis Business or Activity, the process used by the City in making its decision, City Licensee's Operation of its Commercial Cannabis Business, or

the alleged violation of any federal, state or local laws by the Commercial Cannabis Business or any of its officers, employees or agents; and (b) provide evidence of and maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Risk Manager.

7.20.120 Enforcement and Penalties

A. It is unlawful to:

1. Operate, conduct, or direct Commercial Cannabis Activity in the City without a valid City License authorizing such Activity;
2. Own, set up, operate, or maintain a Commercial Cannabis Business in the City without a valid City License;
3. Participate as an employee, contractor, agent, volunteer, or in any other capacity in a Commercial Cannabis Business in the City that does not possess a valid City License;
4. Use any parcel or any portion of parcel of land as a Commercial Cannabis Business without a valid City License;
5. Lease, rent to, or otherwise allow a Commercial Cannabis Business to occupy any parcel or portion of parcel of land in the City without a valid City License.

B. It shall be unlawful for any person to violate any provision, or to fail to comply with the requirements, of this Chapter or any regulation adopted hereunder. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter or any regulation adopted hereunder shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for a period of not more than six months, or by both a fine and imprisonment. Each day that a violation continues is deemed to be a new and separate offense. No proof of knowledge, intent, or other mental state is required to establish a violation.

C. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter or any regulation adopted hereunder is a public nuisance and may be abated by the City, or by the City Attorney on behalf of the people of the State of California, as a nuisance by means of a restraining order, injunction, abatement warrant, or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City, or the City Attorney on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with this Chapter or seek any other relief or remedy available at law or equity, including the imposition of monetary civil penalties. Each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$10,000 for each and every offense.

D. Whenever in this Chapter any act or omission is made unlawful, it shall include causing, aiding, abetting, suffering, or concealing the fact of such act or omission.

E. The remedies specified in this Section are cumulative and in addition to any other remedies available under State or local law for a violation of this Code.

F. Nothing in this Section shall be construed as requiring the City to allow, permit, license, authorize, or otherwise regulate Commercial Cannabis

Activity, or as abridging the City's police power with respect to enforcement regarding Commercial Cannabis Activity.

7.20.130 Effectiveness Conditioned on Passage of Tax Measure

The effectiveness of the ordinance enacting this Chapter is contingent upon voter approval and the continuous legal validity of the Cannabis Business Tax measure being submitted to voters in November 2018 concurrently with this Commercial Cannabis ordinance. The tax measure would impose an excise tax on all Commercial Cannabis Businesses. In the event the proposed tax measure is not approved by the voters, or is suspended or invalidated for any reason, the provisions of this ordinance permitting Commercial Cannabis Businesses shall be void without any further action required by the City.

7.20.140 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.

B. Notwithstanding any other provision of this or any other 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 the regulation of 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. 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.

4. 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
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