

**ORDINANCE NO. 2019-2**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING CHAPTER 18.15 OF THE VISTA DEVELOPMENT CODE WITH RESPECT TO USES AND ACTIONS PROHIBITED WITHIN THE BIOLOGICAL PRESERVE OVERLAY ZONE**

**The City Council of the City of Vista does resolve as follows:**

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

A. This ordinance is enacted by the City Council pursuant to its authority under the Charter of the City of Vista and Article 11, Section 7 of the California Constitution.

B. The biological preserve overlay zone includes sensitive habitat that can be damaged through use by unauthorized persons or through uses that have the potential to destroy habitat.

C. Enhanced rules must be established to protect animal and plant species, as well as habitat required for those species.

D. Protecting land and habitat within the biological preserve overlay zone will safeguard the ecosystem present in the zone, and will preserve a valuable limited resource within the City of Vista that can be enjoyed by the larger Vista community.

E. The City Council intends that this ordinance be construed and applied in a manner to maximize the protection afforded to land and habitat within the biological preserve overlay zone.

F. The proposed code amendment is exempt from further environmental review under the California Environmental Quality Act (CEQA) in accordance with Section 15308 of the CEQA Guidelines, "Actions by Regulatory Agencies for the Protection of the Environment," because the action would provide for the protection of sensitive biological resource areas.

**2. Code Amendment**

A. Section 18.15.055 is added to the Vista Development Code to read as follows:

**"Section 18.15.055 Prohibited Uses and Acts**

A. With the exception of areas within Buena Vista Park, it shall be unlawful for any person to be present on land within the biological overlay zone between the period beginning one hour prior to sunset and ending one hour after sunrise unless the person is: (1) a City employee or an officially recognized City agent who is performing authorized services for the City; (2) a member of a law enforcement or emergency agency engaged in actions within the course and scope of their work; (3) a researcher engaged in biological or habitat study which has been approved in writing by the City; or (4) an employee or agent of a utility or

governmental agency with an easement that applies to the biological overlay zone who is performing actions authorized by that easement.

B. Except for authorized actions taken by persons pursuant to clauses (1) through (4) above, it shall be unlawful for any person within the biological preserve overlay zone to:

1. Assemble, build, construct, erect, occupy or use any structure, product, or item designed to be placed on, suspended from, or attached to any ground, rocks, vegetation, fences, poles, or fixtures.

2. Assemble, build, construct, erect, occupy, or use any type of bed, habitation, or shelter.

3. Cut, trample, crush, or sever any live or dead vegetation or grade or shift any rocks or land for any purpose, including creating a resting place.

4. Raise, capture, or remove any biological material, vegetation, or animal.

5. Urinate or defecate in any location except within a City-provided bathroom with operating plumbing.

6. Use matches, use a lighter, use a generator, ignite a flame, smoke a combustible product, start or maintain a fire, or cook or heat food.

7. Leave any type of personal property or trash unattended which the person owns, possesses, or controls, unless deposited in a City-provided trash receptacle.

8. Use or occupy any building or improvement of any nature, unless approved or authorized by the Vista Planning Commission or City Council pursuant to Section 18.15.040.C. or Section 18.15.050, and only if used or occupied in the intended manner during City-approved operating hours.

C. The prohibitions in this Section do not apply to an owner of private land subject a biological preserve overlay zone, but any such owner must satisfy all applicable laws, ordinances, rules, regulations and covenant agreements that otherwise apply to the conduct of the owner or the owner's use of the land subject to the biological preserve overlay zone."

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3. **Effective Date.** This Ordinance shall be effective on the thirty-first day following the date of its adoption.

4. **Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council held on January 22, 2019, by the following vote:

AYES: Mayor Ritter, Rigby, Franklin, Green, Contreras


NOES: None

ABSTAIN: None


APPROVED AS TO FORM:  
DAROLD PIEPER, CITY ATTORNEY

By:  \_\_\_\_\_

APPROVED  
Darold Pieper  
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\_\_\_\_\_  
JUDY RITTER, MAYOR

ATTEST:  
KATHY VALDEZ, CITY CLERK

By:  \_\_\_\_\_

## **CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-2 to be posted on January 24, 2019, 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 E. McClellan Senior Center, 1400 Vale Terrace Drive; and 3) the City Clerk's Office, 200 Civic Center Drive.

A handwritten signature in blue ink that reads "Kathy Valdez". The signature is written in a cursive style.

Kathy Valdez, City Clerk