

**ORDINANCE NO. 2019-4**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA EXTENDING A MORATORIUM ON CERTAIN CANNABIS-RELATED USES**

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

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

A. Provisions of the City's Development Code are currently being reviewed to determine the best method for further regulating or prohibiting certain cannabis-related uses.

B. Government Code §65858(a) authorizes the City Council to protect the public safety, health and welfare by adopting as an urgency measure an interim zoning ordinance prohibiting any uses which may be in conflict with general plan, specific plan and zoning proposals which the City is considering or studying or intends to study within a reasonable time. Government Code §65858(a) also provides that after notice and public hearing, the City Council may extend the interim ordinance for ten (10) months and fifteen (15) days. The public health, safety and welfare of the City of Vista, its businesses, and its residents require the enactment of this Urgency Ordinance extending the moratorium imposed by Urgency Ordinance No. 2018-19 with respect to certain cannabis-related uses.

C. Capitalized terms used in this urgency ordinance shall have the meaning assigned to those terms by Urgency Ordinance No. 2018-19.

D. On December 11, 2018, the City Council held a public meeting and adopted Urgency Ordinance No. 2018-19, entitled "An Urgency Ordinance of the City Council of the Chartered City of Vista, California, Establishing a Moratorium on Certain Cannabis-Related Uses." By force of law, Government Code §65858(a), and by its own terms, Urgency Ordinance No. 2018-19 expires and is of no further force and effect on January 25, 2019, unless further extended

E. On January 22, 2019, the City Council held a public meeting and considered the adoption of this Urgency Ordinance to extend Urgency Ordinance No. 2018-19 for an additional ten (10) months and fifteen (15) days until December 10, 2019 pursuant to Government Code §65858(a).

F. Without the continued imposition of this moratorium, properties or uses in Vista could receive license, entitlements, or authorization to commence operation of Specified Cannabis-Related Uses although the City Council has determined that the City's Development Code is in need of updating and has hereby directed that a study be done to recommend new standards and revised Development Code sections to address the regulation of Specified Cannabis-Related Uses.

G. In order to prevent the frustration of said studies and the implementation thereof, the public interest, health, safety and welfare require the immediate enactment of this Urgency Ordinance. The absence of this Urgency Ordinance would create a serious threat to the orderly and effective implementation of any zoning amendments, general plan amendments or specific plan amendments which may be adopted by the City as a result of the studies, in that

development of Specified Cannabis-Related Uses, may be in conflict with or frustrate the contemplated updates and revisions to the City's Development Code, general plan or specific plans and may lead to the adverse impacts.

H. On November 6, 2018 the voters of Vista approved Measures Z and AA, and on December 11, 2018 the election results were certified by the City Council. Measure Z authorized certain "medical cannabis dispensaries," as defined in the Measure, to operate in Vista. However, Measure Z did not approve any other form of cannabis use. Measure AA adopted taxing rules for cannabis, and preserved the City Council's authority to adopt ordinances, including among others, zoning ordinances related to cannabis uses.

I. Recognizing the considerable change in Vista's ordinances involving cannabis, the City Council wants to emphasize that a class of Cannabis-Related Uses — herein known as Specified Cannabis-Related Uses — still remain prohibited under Vista's recently-passed Measures. Simultaneously, the City Council intends that this extended Urgency Ordinance will not curtail Allowable Cannabis Uses, which include, among others, uses involving medical cannabis dispensaries as permitted by Measure Z.

J. The City Council intends that this Urgency Ordinance and the extended moratorium on Specified Cannabis-Related Uses will safeguard the community against persons who might unintentionally or deliberately misread Vista's ordinances as allowing the establishment or operation of Specified Cannabis-Related Uses which have the potential to harm the Vista community. The City Council finds that the possibility for a misreading of Vista's cannabis ordinances was proven in recent years when certain persons established cannabis uses in violation of Vista's prohibition ordinances, and later wrongly claimed that their uses were lawful or should be allowed based on asserted ambiguities in Vista's ordinances. Further, to the extent that the Vista's ordinances might be read by any court to allow one or more Specified Cannabis-Related Uses, the City Council intends that this extended Urgency Ordinance will prohibit all Specified Cannabis-Related Uses during the lawful term of the Urgency Ordinance.

K. The uses contained in the term "Specified Cannabis-Related Uses" subject to this extended moratorium, include, among others, recreational cannabis dispensaries, cannabis cultivation, cannabis processing and manufacturing, cannabis laboratory testing, cannabis warehousing or storage, and other uses involving cannabis, with the exception of Allowable Cannabis Uses.

L. Specified Cannabis-Related Uses in Vista can produce conditions, as described below ("Associated Harmful Effects"), with the potential to threaten the health, safety and welfare of the Vista community. Without the Urgency Ordinance, unlawful Cannabis-Related Uses might be established which could produce illegal competition with medical cannabis dispensaries authorized by Measure Z, a reduction in the resulting taxes collected by the City, and conditions capable of undermining the businesses Measure Z is intended to promote. The Urgency Ordinance will also clarify the law in a manner to minimize the introduction of unlawful Cannabis-Related Uses. The past operation of such uses in Vista has been associated with increases in service calls to the Sheriff's Department and the commission of certain types of crimes, including break-ins. Illegal cultivation, processing and cannabis manufacturing is associated with environmental damage and the introduction of unsafe products into the stream of commerce and consumption.

M. This Urgency Ordinance is necessary to assure that Specified Cannabis-Related Uses, with the potential to produce Associated Harmful Effects, are not introduced or established in Vista until sufficient study occurs to determine if some of those uses should be allowed to operate in Vista, and if so, on what terms. In enacting this Urgency Ordinance and extending Ordinance No. 2018-19, the City Council intends to advance the goals of Measure Z, protect Vista's quality of life, safeguard Vista's lawful retail and commercial trade, reduce the opportunity for illegal conduct, protect the environment, and promote orderly planning. The clarity produced by this Urgency Ordinance will reduce the potential for costly litigation that might result if persons unintentionally or deliberately misread Vista's new cannabis ordinances as allowing the establishment of unauthorized cannabis businesses.

N. The City Council directs that all studies relating to new zoning ordinances, specific plan amendments, and general plan amendments be pursued as expeditiously as is practicable. The public interest, health, safety and welfare requires the extension of this Urgency Ordinance so that such studies may proceed, and may be implemented without obstruction or frustration.

O. The City Council finds that the continued imposition of Urgency Ordinance No. 2018-19 is required to preserve and protect the City. The potential introduction of Specified Cannabis-Related Uses into Vista constitutes a current and immediate threat to the public health, safety or welfare of the City and its citizens and that the approval of any applicable entitlement, permit, or certification for such use, which is required in order to comply with the Development Code or other laws, would result in that threat to public health, safety or welfare, thereby necessitating the immediate enactment of this Ordinance. The facts constituting such an urgency are set forth in Sections A-O, inclusive of this Urgency Ordinance.

P. The City further finds that the facts, circumstances and events that led to the adoption of this Urgency Ordinance establishing a moratorium on Specified Cannabis-Related Uses is distinctly different from any other interim ordinance previously adopted by the City in that none of the prior interim ordinances dealt with the potential adverse effects associated with Cannabis-Related Uses

## **2. Extension of Urgency Ordinance.**

Pursuant to Government Code §65858 it is hereby declared that the extension of Urgency Ordinance No. 2018-19 is necessary as an urgency measure to preserve the public health, safety and welfare. The City Council finds that this Urgency Ordinance is necessary for the orderly and effective implementation of certain amendments to be recommended to the City's Development Code with respect to Specified Cannabis-Related Uses. Ordinance No. 2018-19 is hereby extended for an additional ten (10) months and fifteen (15) days, and therefore remains effective until December 10, 2019.

**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. Publication.** The City Clerk shall certify to the passage of this Urgency Ordinance and cause the same to be published in the manner prescribed by law.

**5. Effective Date.** This Urgency Ordinance shall be introduced, passed and adopted at one and the same meeting and shall become effective immediately and Urgency Ordinance No. 2018-19 is hereby extended for ten (10) months and fifteen (15) days, and therefore shall expire and be of no further force and effect as of December 10, 2019. It is understood that Ordinance 2018-19 may also be sooner terminated and cease to have any further force and effect prior to December 10, 2019 by action of the City Council either at the time of or prior to the adoption of amendments to the City's Development Code as contemplated by this Ordinance.

**7. Adoption.** Passed, approved and adopted at a meeting held on January 22, 2019, by the following vote:

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

NOES: None

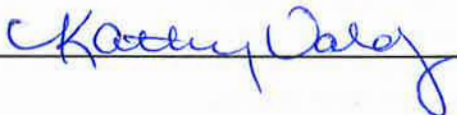
ABSTAIN: None

  
\_\_\_\_\_  
JUDY RITTER, MAYOR

APPROVED AS TO FORM:  
DAROLD PIEPER, CITY ATTORNEY

ATTEST:  
KATHY VALDEZ, CITY CLERK

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

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

APPROVED  
Jonathan B. Stone  
1014 011019

## **CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-4 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, flowing style.

Kathy Valdez, City Clerk