

**ORDINANCE NO. 2019-9**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, ADDING PROVISIONS TO CHAPTER 5.94 WITH RESPECT TO TAXATION IN A MANNER CONSISTENT WITH MEASURE Z AND SECTION 5.94.140 OF THE MEASURE**

**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 the authority under the Charter of the City of Vista and Article 11, Section 7 of the California Constitution.

B. Further, this ordinance is enacted pursuant to Section 5.94.140 of voter-approved initiative, designated as Measure Z, which the voters adopted at the general election on November 6, 2018.

**2. Code Amendment**

A. Section 5.94.020 of the Vista Municipal Code is amended to include the following definitions which will be inserted into the section in alphabetical order:

**“Cannabis business” or “commercial cannabis business”** shall have the meaning assigned to the term “commercial cannabis activity” by Section 26001 of the Title XVI of the California Code of Regulations.

**“Gross Sales”** shall have the same meaning as is given to the term “Gross Receipts” pursuant to Section 7.10.020 of the Vista Municipal Code.

**“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.”

**“Person or entity engaged in the operation of a commercial cannabis business”** means a registered business commencing, conducting, operating, or managing 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."

**"Registered business"** means a person which is included on a registration list maintained by the City in accordance with Chapter 5.94 of the Vista Municipal Code, until such time that the registration expires."

**"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.

B. Section 5.94.143, Tax Reporting, Remittance, Penalization, and Administration Rules, is added to read as follows:

**Section 5.94.143 Tax Reporting, Remittance, Penalization, and Administration Rules**

A. Purpose. Section 5.94.140.C authorizes the City Council to adopt ordinances relating to the reporting, collection, auditing, interest assessment, penalties and other matters pertaining to taxes owed or delinquent pursuant to this Chapter. In adopting this section, the City Council intends to create a consistent program for the City's administration of all cannabis taxes owing to Vista under this Chapter and Chapter 7.10 as allowed by applicable law.

B. Reporting. All taxes owed pursuant to Chapter 5.94 shall be reported and remitted to the City in accordance with Section 7.10.030 of the Vista Municipal Code.

C. Penalties and Interest. If any person fails or refuses to pay taxes owed under this Chapter on or before the date on which the taxes are due, penalties and interest shall be imposed in the amounts and manner provided in Section 7.10.050 of the Vista Municipal Code.

D. Exemptions. Taxes imposed pursuant to this Chapter shall not be collected with respect to the personal cultivations or other personal use of cannabis to the limited extent described in Section 7.10.065 of the Vista Municipal Code.

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

F. Constitutionality and Legality. The taxes owed pursuant to this Chapter shall be applied in a manner consistent with the rules contained in Section 7.10.085 of the Vista Municipal Code.

G. Audit and Examinations. For purposes of conducting audits and examinations with respect to taxes owed pursuant to this Chapter or property, materials, information, operations or items relating to this Chapter, the City, City Manager, City Attorney and Tax Collector shall have those powers enumerated in Section 7.10.090.A and C of the Vista Municipal Code.

H. Records Retention. Every person liable for the collection and payment of any tax owed pursuant to this Chapter shall have a duty to keep and preserve those records described in Section 7.10.090.B for the periods prescribed therein.

C. Section 5.94.147, Coordination of Tax Provisions of Chapters 5.94 and 7.10, is added to read as follows:

**Section 5.94.147 Coordination of Tax Provisions of Chapters 5.94 and 7.10**

A. Any person which is a registered business pursuant to Chapter 5.94 shall pay taxes on all gross receipts of the business in accordance with Chapter 5.94 of the Vista Municipal Code and all regulations adopted pursuant to that Chapter.

B. Except for registered businesses paying taxes on gross receipts pursuant to Chapter 5.94, a person engaged in the operation of a commercial cannabis business shall pay taxes in accordance with Chapter 7.10 of the Vista Municipal Code and all regulations adopted pursuant to that Chapter.

C. Where a person in successive periods qualified as both a registered business and an unregistered business when operating as a cannabis business, the tax provisions of Chapter 5.94 shall be applied to the person during the periods it was a registered business, and the tax provisions of Chapter 7.10 shall be applied at the times it was not a registered business. However, if a court determines that a successive application of the tax provisions is improper and a simultaneous application must occur, the simultaneous application shall occur in a manner to assure that no gross receipts or gross revenues escape lawful taxation.

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

[Continued on page 4.]

**4. Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council held on June 25, 2019 by the following vote:

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


NOES: None

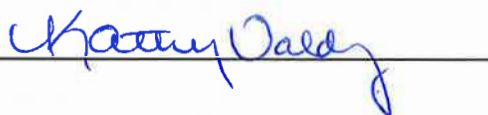
ABSTAIN: None

  
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JUDY RITTER, MAYOR

APPROVED AS TO FORM:  
DAROLD PIEPER, CITY ATTORNEY

ATTEST:  
KATHY VALDEZ, CITY CLERK

By:   
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By:   
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APPROVED  
Darold Pieper  
20190611162205

## **CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-9 to be posted on June 27, 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 with a large initial 'K'.

Kathy Valdez, City Clerk