

**ORDINANCE NO. 2019-13**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING SECTION 5.94.080 C. OF THE VISTA MUNICIPAL CODE ESTABLISHING AND REQUIRING PERMITS FOR EMPLOYEES OF LICENSED MEDICAL CANNABIS BUSINESSES**

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

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

A. This Ordinance is adopted pursuant to the authority granted by Article 11, Section 7 of the California Constitution and the Charter for the City of Vista.

B. Measure Z added Chapter 5.94 to the Vista Municipal Code. Chapter 5.94 authorizes certain medical cannabis dispensaries to open and operate in the City of Vista upon satisfying the requirements of both Chapter 5.94 and state law, and upon obtaining licenses required by both Chapter 5.94 and state law.

C. Section 5.94.080 C.1. of Chapter 5.94 states that medical cannabis dispensaries shall not have any employees, operators or volunteers who have suffered a conviction for a felony offense having occurred within the four (4) years prior to their employment. Section 5.94.080 C. 1 further mandates that this requirement shall be confirmed through the results of a Live Scan conducted annually by the medical cannabis business on all employees.

D. The City has determined that current state law precludes a medical cannabis business from directly screening its employees using the Live Scan process; only designated government agencies and authorized private companies may submit requests for criminal offender record information reviews directly to the Department of Justice using the statewide electronic application communication network run by the Office of the Attorney General, known as the Live Scan system.

E. Medical cannabis dispensaries licensed under Chapter 5.94 will be open for business in the City forthwith and will initially employ individuals who have not undergone the Live Scan process. The City, pursuant to a City Manager Regulation, will issue temporary work permits to these employees of licensed cannabis businesses until the Live Scan process can be conducted on these employees and prospective employees.

F. This Ordinance is necessary in order to implement the Live Scan requirement set forth in VMC § 5.94.080 C.1 and to protect consumers, public health and public safety by assuring that individuals employed by licensed cannabis businesses have not suffered a conviction for a felony offense having occurred within the past four (4) years prior to their employment.

G. This Ordinance is necessary to allow the City to create an employee work permit for all prospective medical cannabis employees so that the City can conduct Live Scans for those prospective employees and comply with the requirements of Measure Z as set forth in VMC § 5.94.080 C.

**2. Code Amendment.**

A. Section 5.94.080.C.3. is added to the Vista Municipal Code to read as follows:

“3. Employee Work Permits.

a. No person shall be employed at, or volunteer at, a medical cannabis dispensary licensed under this Chapter without receiving a valid medical dispensary employee work permit issued by the City to such person. An employer may pay the employee for the time needed to make such application, but no work at the medical cannabis dispensary shall occur until that application is made and a permit issued.

b. The application for a permit shall be made on a form provided by the City and pursuant to regulations issued by the City Manager pursuant to this Section and Section 5.94.170.

c. Upon applying for a work permit it shall be the prospective employee's responsibility to immediately complete the Department of Justice Request for Live Scan Service form provided to the prospective employee by the City and to have the Live Scan conducted at and by a designated and authorized entity that will report the results to the City of Vista.

d. Upon receipt of the Live Scan results the City shall approve or deny the application and so notify the prospective employee and the prospective employer.

e. The medical cannabis dispensary employee permit, if approved, shall state on its face the name of the person to whom it is granted, and the expiration date.

f. The City Manager is authorized to promulgate such regulations as may be necessary or convenient to implement this Section.”

**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 this 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. Savings Clause.** The provisions of this Ordinance do not apply to the extent that their application would deprive any person of constitutional or statutory rights or privileges, or would otherwise be inconsistent with state or federal law.

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

**6. Effective Date.** This Ordinance shall become part of the Vista Municipal Code on the 31<sup>st</sup> day following the date of adoption.

[Continued on page 3.]

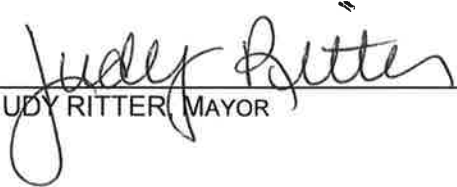
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7. **Adoption.** INTRODUCED and ADOPTED at a meeting of the City Council of the City of Vista held on October 22, 2019, by the following vote:

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:   
\_\_\_\_\_

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

APPROVED  
Darold Pieper  
20191014084129

**CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2019-13 to be posted on October 23, 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.

*Kathy Valdez*

Kathy Valdez, City Clerk