

ORDINANCE NO. 2024-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING CHAPTER 8.12 OF THE VISTA MUNICIPAL CODE AND CHAPTER 18.76 OF THE VISTA DEVELOPMENT CODE RELATING TO TEMPORARY CANNABIS EVENTS

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

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

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 City intends to amend Chapter 8.12 of the Vista Municipal Code and to amend Chapter 18.76 of the Vista Development Code to establish regulations, standards, and a permitting process governing temporary cannabis events as permitted under Section 26200(e) of the California Business and Professions Code, and Chapter 5, Division 19, of Title 4 of the California Code of Regulations (commencing at Section 15000).

C. The proposed code amendments would regulate and create a permitting process for temporary cannabis events. Such events would not result in permanent physical changes at the event sites as they are limited in duration and the number of events allowed per year, and are subject to standard restrictions that limit potential adverse effects including, but not limited to, noise, traffic and refuse disposal. Temporary cannabis events are subject to approval of a Temporary Use Permit by the Zoning Administrator, which requires a noticed public hearing and separate California Environmental Quality Act (CEQA) compliance. Therefore, the proposed code amendments are exempt pursuant to CEQA Guidelines Section 15061(b)(3), the “Common Sense” exemption, because there is no possibility that the proposed amendments may have a significant effect on the environment.

D. On May 28, 2024, the City Council held a public hearing regarding the proposed amendments to the Vista Municipal Code and Vista Development Code. At said public hearing, staff reports, both written and oral were received in evidence and all persons desiring to speak on the proposed project were heard. At the conclusion of said hearing, after consideration of all evidence presented, the City Council reached a decision on the matter as set forth.

SECTION 2. Code Amendment.

A. Chapter 8.12, Smoking in Public Places, of the Vista Municipal Code is amended to read as follows:

**“Chapter 8.12
Smoking in Public Places**

Sections:

8.12.010	Purpose
8.12.020	Definitions
8.12.030	Prohibitions
8.12.040	Exceptions – Areas Where Smoking is Permitted

- 8.12.050 Posting of Signs**
- 8.12.060 Retaliation Against Persons Requesting Compliance Prohibited**
- 8.12.070 Penalties and Enforcement**

Section 8.12.010 through 8.12.030 (no changes)

Section 8.12.040 Exceptions - Areas Where Smoking is Permitted

The following areas are exempt from the mandatory no-smoking provisions of this chapter, and permit smoking.

- A. Private residences, except private residences licensed as family day care homes, during hours of operation as a family day care home.
- B. Guestroom accommodations in a hotel, motel, or similar transient lodging establishment, if approved by the management of that facility, but not to exceed forty percent of all available guestroom accommodations.
- C. Employee breakrooms designated by an employer for smoking, provided that all requirements of Labor Code section 6404.5(d)(13) are satisfied.
- D. Cabs of motortrucks or truck tractors, as defined in the Vehicle Code, if no nonsmoking employees are present.
- E. Patient smoking areas in long-term health care facilities, approved by the management of the facility, as defined in Section 1418 of the Health and Safety Code.
- F. Theatrical production sites, if smoking is an integral part of the story in the theatrical production, if approved by the management of the facility.
- G. Medical research or treatment sites, if smoking is an integral to any research and treatment being conducted, if approved by the management of the facility.
- H. The designated consumption area of a temporary cannabis event that is permitted pursuant to Chapter 18.76.

Section 8.12.050 through 8.12.070 (no changes)”

- B. Chapter 18.76, Temporary Use Permits, of the Vista Development Code is amended to read as follows:

**“Chapter 18.76
Temporary Use Permits**

Sections:

- 18.76.010 Temporary Use Permits - Zoning Administrator**
- 18.76.015 Temporary Cannabis Events**
- 18.76.020 Administrative Temporary Use Permits**
- 18.76.030 Conflict with Chapter 12.12 Provisions**

Section 18.76.010 Temporary Use Permits - Zoning Administrator

- A. Permitted Uses. Temporary use permits may be issued for the following uses on any privately owned property zoned C-1, 2 or 3; M-1 or properties designated for commercial or industrial uses within specific plans provided that the operations permitted therein shall be for no more than ten days:

1. Carnivals, circuses or fairs
2. Rodeos with no permanent structures involved
3. Fireworks shows
4. Other temporary uses of a similar nature to those in Subdivisions 1 through 3 of this subsection.
5. Temporary cannabis events, subject to the requirements of section 18.76.015.

B. Application Procedures. Applications for a temporary use permit shall be made to the Office of the Zoning Administrator at least 45 days prior to the first date of the proposed activity in a form prescribed by the Community Development Director and shall be accompanied by:

1. A map showing the area on which the event will be held.
2. A description of the event for which the Temporary Use Permit is requested.

3. The name(s) of the organization(s) and principals within the organization applying for the temporary use permit.

4. An estimate of the number of persons who will attend, all vendors who are anticipated to operate at the event, and a description of all security personnel and arrangements that are scheduled for the event.

5. A description of parking arrangements for the event.

6. Such additional information as may be required by the Zoning Administrator to determine whether the event will be compatible with the surrounding neighborhood, satisfy applicable laws, and be consistent with the public, health, safety and welfare.

C. Fees. A nonrefundable processing fee shall be paid prior to the acceptance of any application for a temporary use permit. Such fee shall be established by resolution of the City Council from time to time.

D. Expiration. Each valid temporary use permit, unless earlier revoked, shall expire and become null and void at the time specified in such permit.

E. Notice and Hearing.

1. Within 45 days of the date of a submittal of a complete application for a temporary use permit, the Zoning Administrator shall hold a public hearing on the application. Notice of the public hearing shall be given pursuant to Section 18.04.060.A.

2. A temporary use permit shall be issued, unless the Zoning Administrator makes one or more of the following findings:

a. That the proposed activity at the particular location will not contribute to the general convenience or welfare of the neighborhood or the community.

b. That the characteristics of the proposed activity are incompatible with those permitted in the surrounding areas, or that such proposed activity is not in harmony with the various elements and objectives of the General Plan.

c. The proposed activity, under the circumstances of the particular case, will be detrimental to the health, safety, and welfare of the persons residing in the vicinity, or will be in conflict with applicable law. For purposes of temporary cannabis events, "applicable law" excludes the regulation of cannabis under the federal Controlled Substances Act.

3. Any approved permit may include conditions or requirements that the Zoning Administrator determines are reasonably required in order to make one or more of the findings set forth in Subsection 2 above. In addition, the Zoning Administrator may require that insurance and indemnification be provided for the benefit of the City and/or the public when the Zoning Administrator determines that there is a risk of damage, injury or lawsuit in connection with the special event.

F. Appeal. Appeals from the decision of the Zoning Administrator shall be made pursuant to Section 18.04.150.

Section 18.76.015 Temporary Cannabis Events

A. For purposes of this section, the following definitions apply:

“**Cannabis goods**” has the same meaning as defined under Section 15000 of Chapter 1, Division 19, Title 4 of the California Code of Regulations.

“**Temporary cannabis event**” shall mean a temporary event that includes onsite sale and/or consumption of cannabis goods in compliance with Section 26200(e) of the California Business and Professions Code, Chapter 5, Division 19, of Title 4 of the California Code of Regulations (commencing at Section 15000) and this section of the Code.

B. Required Licenses. Any person applying for a temporary use permit for a temporary cannabis event (“temporary cannabis event permit”) must obtain: (1) a valid business license issued by the City; (2) a state cannabis event organizer license issued by the California Department of Cannabis Control (“DCC”); and (3) a state temporary cannabis event license issued by the DCC, prior to the event. All licenses and permits required under state and local law shall remain in full force effect throughout the duration of the event.

C. Applications. Applications for a temporary cannabis event permit must comply with all requirements of section 18.76.010, unless otherwise stated in this section. The cannabis event organizer shall apply to the City for a temporary cannabis event permit with a City-approved form, no less than sixty (60) calendar days before the first day of the event. Applications shall provide a designated ride share area in addition to describing how parking requirements will be met.

D. Event Duration. A temporary cannabis event permit may be issued for a single day or two (2) consecutive days, subject to the following: (1) no person may be issued temporary cannabis event permits that cumulatively exceed 24 days per calendar year; and (2) no more than 12 temporary cannabis events per calendar year may be sited at the same private property location as determined by Assessor Parcel Number.

E. Event Location and Notification. A temporary cannabis event may not be located within 1,000 feet of a residential use, park, church or school, as measured from door to door. At least 10 calendar days prior to the public hearing considering the request for temporary cannabis event, the City shall provide notification of the public hearing in compliance with Section 18.04.060.A. including publication in a newspaper of general circulation, notice mailed or delivered to all owners of properties within 500 feet of the event location, and notice posted at the proposed event location.

F. Conditions. A temporary cannabis event permit holder and all retailers participating in the temporary cannabis event shall comply with all conditions required under state and City licenses and permits, including but not limited to the following:

1. Cannabis consumption cannot be visible from any public place or nonage-restricted area.

2. Access to the temporary cannabis event must be restricted to persons 21 years of age or older.

3. Sale or consumption of alcohol or tobacco is prohibited on the premises of a temporary cannabis event.

4. All cannabis goods authorized to be sold at a temporary cannabis event must be transported to and from the event by a licensed distributor.

5. Consumption must be expressly authorized in the state temporary cannabis event license, otherwise only the sale of cannabis goods by licensed retailers at the event is permitted. If consumption is permitted, it shall only occur in a designated area and an on-site certified emergency medical technician (EMT) must be provided for the duration of the event.

6. Only state-licensed cannabis retailers are authorized to conduct sales of cannabis goods at a temporary cannabis event. Retailers must comply with all state law requirements authorizing on-site cannabis sales and consumption at temporary cannabis events,

including but not limited to:

- a. Displays of cannabis goods;
- b. Use of exit packaging;
- c. Age restrictions on sales;
- d. Daily sales limits;
- e. No free samples of cannabis goods;
- f. Designated sales locations with no mobile sales; and
- g. Recording sales in the state track and trace system.

7. Any retailer engaging in the sale of cannabis goods must possess a valid City of Vista business license and a commercial adult use cannabis business license in compliance with Chapter 5.95 of this Code. Such retailers must comply with all required tax provisions of this Code relating to the sale of cannabis goods in the City.

8. The cannabis event organizer shall hire or contract for security personnel to provide security services at the temporary cannabis event. The number of required security personnel and hours of security service shall be determined by the City. All security personnel shall be at least 21 years of age, licensed by the Bureau of Security and Investigative Services, and comply with chapters 11.4 and 11.5 of division 3 of the California Business and Professions Code. At a minimum, security personnel shall be present on the premises of a temporary cannabis event whenever cannabis goods are available for sale or cannabis consumption is allowed.

9. The cannabis event organizer and their hired personnel must use a driver's license scanner to verify age and authenticate patron IDs prior to providing event access.

10. The cannabis event organizer shall provide a certificate of insurance naming the City as additional insured, in an amount as specified by the Zoning Administrator but in no event below \$2,000,000.

11. By accepting a temporary cannabis event permit, the cannabis event organizer agrees to defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liability arising out of the actions permitted by such permit, and agrees to pay on behalf of the City all claims, damages, judgments, legal and court costs, adjuster fees and attorney fees related thereto.

12. All waste from the temporary cannabis event must be disposed of in designated waste receptacles and in accordance with state law.

13. Temporary cannabis events must comply with the City's Noise Ordinance.

14. Temporary cannabis events are limited to the hours of 9 a.m. to 10 p.m.

G. City Access. City code enforcement officers, Sheriff's department officers, or other agents or employees of the City requesting admission to the temporary cannabis event for the purposes of determining compliance with this section shall be provided unrestricted access.

H. Permit Revocation. A temporary cannabis event permit may be immediately revoked by the Zoning Administrator if they determine the existence of any of the following: (1) a significant violation of any requirement of this section, applicable state law, or the conditions of permit approval; (2) the event poses a threat to public health or safety; or (3) the permit was issued in error or contrary to law. Any permit revocation shall be made by the City in writing and may be appealed in writing to the City Manager within five (5) calendar days of the date of revocation. The decision of the City Manager or their designee shall be final. Upon revocation, the cannabis event organizer may not apply for a temporary cannabis event permit for a period of one year following the date of revocation.

I. Violation and Penalty. Failure to comply with the provisions of this section shall constitute a violation of the zoning ordinance and is subject to enforcement and penalty as is established by Chapter 18.82.

Section 18.76.020 through 18.76.030 (no changes)"

B. Chapter 18.02 of the Vista Development Code is amended to read as follows:

**“Chapter 18.02
Purpose, Interpretation and Definitions**

Sections 18.02.005 through 18.02.323 (no changes)

Section 18.02.325 Guesthouse

“Guesthouse” shall mean living quarters within an accessory building for the sole use of the primary occupants of the premises or for temporary use by guests of the occupants of premises, which living quarters have no kitchen facilities and are not otherwise used as a separate dwelling. No guest house shall exceed 700 square feet in gross floor area. No guest house shall be more than one story in height. It may be located on the top of another single story accessory structure.

Sections 18.02.330 through 18.02.735 (no changes)”

SECTION 3. 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.

SECTION 4. This Ordinance shall be effective on the thirty-first day following the date of its adoption. The City Clerk is authorized and directed to publish a copy in the manner provided by law.

INTRODUCED AND ADOPTED at a meeting of the City Council of the Chartered City of Vista held on May 28, 2024, by the following vote:

AYES: Mayor Franklin, Green, Contreras, Melendez, O'Donnell

NOES: None

ABSTAIN: None

APPROVED AS TO FORM:
WALTER CHUNG, CITY ATTORNEY

By: 

APPROVED
Walter C. Chung
20240520075919



JOHN FRANKLIN, MAYOR

ATTEST:
KATHY VALDEZ, CITY CLERK

By: 