

**ORDINANCE NO. 2021-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CHARTERED CITY OF VISTA, CALIFORNIA, AMENDING CHAPTER 5.24 OF THE VISTA MUNICIPAL CODE ENTITLED ESTABLISHMENTS OFFERING LIVE ENTERTAINMENT**

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

1. **Findings.** The City Council hereby finds and declares the following:
  - A. The City Council desires to amend Vista Municipal Code section 5.24, Establishments Offering Live Entertainment.

**2. Code Amendment.**

- A. Section 5.24.1090, Duration of Approved Permits, is amended to read as follows:

“A. Entertainment permits shall expire when either of the following occurs:

1. Two years after issuance; or
2. The business operated by the entertainment establishment moves to a new location.”

- B. Section 5.24.110, Operating Standards, is amended to read as follows:

**“Section 5.24.110 Operating Standards**

Each entertainment and each entertainment establishment is required to satisfy the following operating standards, and each responsible person shall engage in all reasonable efforts to assure that any entertainment or entertainment establishment satisfies the following operating standards:

A. The entertainment permit shall be displayed on the premises in a conspicuous place so that law enforcement persons entering may readily see the entertainment permit and any conditions imposed thereon. A copy of the floor plan approved with the entertainment permit shall be made available at all times at the request of any law enforcement officer or fire marshal.

B. The entertainment establishment shall be closed and all patrons shall vacate the premises between 2:00 a.m. and 6:00 a.m., unless the entertainment permit is conditioned for additional hours of closure.

C. Reasonable efforts shall be made to prevent the admission of any person whose conduct is described in Penal Code Section 415 (fighting, loud noise) or 647 (disorderly conduct) at the premises or on any parking lot or similar facility used by the establishment. The responsible person shall make reasonable efforts to remove persons exhibiting such conduct from the establishment, including calling the Sheriff's Department when circumstances warrant.

D. Reasonable passageway shall be provided through any part of a room used by patrons and entertainers for their ingress and egress.

E. Except as provided below, an establishment providing amplified live entertainment shall assure that the amplified live entertainment occurs

exclusively within a fully enclosed building with all windows and doors closed, except that a door may be briefly and temporarily opened as may be necessary to accommodate ingress or egress. Notwithstanding the preceding requirement, amplified live entertainment may occur within a building that has open doors, windows, or other passages and on approved patios within an industrial zone between the hours of noon and 10 p.m. and in the designated Arts & Culture areas of the Downtown Specific Plan (Historic Downtown and Paseo Santa Fe planning districts) between the hours of 5:00 pm and 9:00 pm Monday through Thursday, between 5:00 pm and 10:00 pm on Friday, between noon and 10:00 pm on Saturday, between noon and 9:00 pm on Sunday, if such entertainment is expressly authorized in the conditions for the entertainment permit. Requests for extended hours for live entertainment on holidays may be approved by the City Manager on a case-by-case basis; requests must be submitted in writing a minimum of ten business days prior to the holiday. For purposes of this paragraph, the industrial zone shall include the M-1 zone, I-P zone, Business Park Specific Plan, or Specific Plan 14. These exceptions are only applicable to spaces located on the ground floor and approved patio areas.

F. All laws applicable to noise abatement shall be observed, including those contained in Chapter 8.32 of this Code.

1. Live entertainment conducted outdoor or semi-outdoor shall not exceed a one-hour average sound level of 75.0 dBA Leq when measured at the property line.

2. Live entertainment conducted during other approved entertainment hours, or at locations not subject to the exception above, shall not exceed a one-hour average sound level of 60 dBA Leq when measured at the property line.

G. The City shall utilize a progressive enforcement policy with regard to noise complaints regarding live entertainment. All complaints and enforcement herein apply only for the duration of the then active permit. Upon issuance of a new or renewed permit, the progressive enforcement policy begins from the first complaint. Upon receiving a complaint, the City will notify the business in writing that a complaint has been received. If a second complaint is received for the business, and the business cannot disprove the validity of the complaint to the satisfaction of the City, the business shall ensure that no future live entertainment performances exceed the allowable limits and shall utilize a sound level meter to monitor the sound level generated from live entertainment and provide the measurements to the City upon request by the City. To monitor the sound level, the business shall be required to use a sound meter as defined in section 8.32.040, which incorporates San Diego County Code section 36.402(s) or any future version of this code section. In addition, the sound level meter must have the capability to log and store the sound level measurements and provide said measurements in a common readable data format. If a third complaint is received for the business, and the business cannot disprove the validity of the complaint to the satisfaction of the City, the business shall ensure future sound levels do not exceed the maximum limits using a noise control plan created by a sound industry professional and provide to the City a copy of the noise control plan and satisfactory documentation that sound levels associated with the business have not exceeded the maximum level allowed. If a fourth complaint is received for the business, and the business cannot disprove the validity of the complaint to the

satisfaction of the City, or if the business refuses to monitor or correct the sound level as described herein, the live entertainment permit shall be immediately suspended for a period of three months beginning on the date of the fourth complaint. If a fifth complaint is received for the business, and the business cannot disprove the validity of the complaint to the satisfaction of the City, or if the business again refuses to monitor or correct the sound level as described herein after serving a three-month suspension, the live entertainment permit shall be immediately suspended for a period of six months beginning on the date of the fifth complaint. If a sixth complaint is received for the business, and the business cannot disprove the validity of the complaint to the satisfaction of the City, or if the business again refuses to monitor or correct the sound level as described herein after serving a six-month suspension, the live entertainment permit shall be immediately suspended for a period of twelve months beginning on the date of the sixth complaint.

H. Reasonable efforts shall be undertaken to control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct upon the entertainment establishment and within 100 feet of the establishment. The 100-foot distance shall be measured in a straight line from the property line of the permitted entertainment establishment.

I. An orderly dispersal of individuals from the vicinity of the entertainment establishment shall occur at closing time, and those dispersed shall not be permitted to congregate in the vicinity in a disorderly fashion.

J. Persons shall not bring an alcoholic beverage onto the premises, or otherwise consume an alcoholic beverage on the premises, unless the permittee has been issued an ABC license and an entertainment permit pursuant to Section 5.24.050(A)(2).

K. The maximum number of persons in the entertainment establishment, other than employees, shall not, at any time, exceed the maximum occupant load as established by the Fire Marshal or the City Building Official.

L. The entertainment establishment, and all of its operations, must comply with all requirements relating to responsible beverage sales and service contained in Chapter 5.10 of this Code if the entertainment establishment allows for the service of consumption of alcohol on the premises.

M. In addition to satisfying all operating requirements found in this Section, each entertainment establishment shall satisfy all other or additional requirements contained in this Code, contained in the Development Code, and imposed pursuant to any entertainment permit issued for the entertainment establishment.

N. During its business hours, the entertainment establishment shall allow entry to any peace officer or code enforcement officer of the City, County or the State, or any officer or official of the United States government, charged with the duty of enforcing police laws during the business hours of the entertainment establishment."

**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

ORDINANCE NO. 2021-15  
CITY COUNCIL OF THE CHARTERED CITY OF VISTA  
PAGE 4

shall, be so construed, as if the original ordinance did not contain the invalid or unenforceable language.

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

5. **Adoption.** INTRODUCED AND ADOPTED at a meeting of the City Council of the City of Vista held on December 14, 2021, by the following vote:

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

NOES: None

ABSTAIN: None

By:   
JUDY RITTER, Mayor

APPROVED AS TO FORM:  
DAROLD PIEPER, CITY ATTORNEY

By: 

ATTEST:  
KATHY VALDEZ, CITY CLERK

By: 

APPROVED  
Darold Pieper  
20211208115207

**CERTIFICATION**

I, Kathy Valdez, City Clerk of the City of Vista, California, certify that I caused the foregoing Ordinance No. 2021-15 to be posted on December 15, 2021, 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, City Clerk

