

ORDINANCE NO. 986

AN ORDINANCE OF THE TOWN COUNCIL OF CORTE MADERA ADOPTING AMENDMENTS TO TITLES 6 AND 9 OF THE TOWN OF CORTE MADERA MUNICIPAL CODE TO CHANGE THE TERM "MARIJUANA" TO CANNABIS": TITLE 6-HEALTH AND SANITATION CHAPTER 6.14-PROHIBITING SMOKING, AND TITLE 9-PEACE, SAFETY AND MORALS CHAPTER 9.14-CONTROLLED SUBSTANCES TO CLARIFY THE DEFINITION OF SMOKING PARAPHERNALIA

WHEREAS, in current state regulations and amendments to the Town Zoning Code being considered, the term "cannabis" has replaced the term "marijuana;" and

WHEREAS, to be consistent throughout the Town Municipal Code (CMMC), the Council wishes to amend Titles 6 and 9 of the CMMC to replace the term "marijuana" with the term "cannabis".

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES ORDAIN AS FOLLOWS:

Section 1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

Section 2. Compliance with the California Environmental Quality Act (CEQA)

The proposed ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) as it has no potential for causing a significant impact on the environment and 15308 as a regulatory action that will protect the environment.

Section 3. Amendments to the Corte Madera Municipal Code

This ordinance, if approved by the Town Council of the Town of Corte Madera, hereby amends the following sections of the Corte Madera Municipal Code attached as Exhibits A and B:

EXHIBIT A

Amendments to Title 6 - HEALTH AND SANITATION
Chapter 6.14 SMOKING PROHIBITED IN CERTAIN PUBLIC PLACES, PLACES OF EMPLOYMENT, OTHER AREAS, AND MULTI-UNIT HOUSING
Section 6.14.010 - Definitions
Section 6.14.110 - Smoking and smoke generally.

EXHIBIT B

Amendments to Title 9 - PEACE SAFETY AND MORALS
Chapter 9.14 CONTROLLED SUBSTANCES
Section 9.14.010 Minors
Section 9.14.020 Minors excluded
Section 9.14.030 Sale and display rooms
Section 9.14.040 Nuisance.

Section 4. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The Town Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

Section 5. Effective Date

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption, but only to the extent that Ordinance Number 987 has been adopted to amend Title 18 of the CMMC to include a definition of "cannabis" and Ordinance Number 987 has taken effect.

Section 6. Posting

The Town Clerk shall cause a summary of this ordinance to be published in the Marin Independent Journal within 5 days prior to passage and within 15 days after passage.

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This ordinance was introduced on the 7th day of May 2019, and adopted on the 21st day of May 2019, by the following vote:

AYES: Councilmembers: Andrews, Bailey, Beckman, Kunhardt, Ravasio
NOES: Councilmembers: - None -
ABSTAIN: Councilmembers: - None -
ABSENT: Councilmembers: - None -



 BOB RAVASIO, MAYOR

ATTEST:


 REBECCA VAUGHN
 TOWN CLERK

EXHIBIT A

PROPOSED AMENDMENTS TO
TITLE 6 – HEALTH AND SANITATION
CHAPTER 6.14 - PROHIBITING SMOKING IN PUBLIC PLACES, PLACES OF
EMPLOYMENT, OTHER AREAS, AND MULTI-UNIT HOUSING

The following revisions are proposed in red with deletions in ~~strikeouts~~ and additions in *italics*.

CHAPTER 6.14 - PROHIBITING SMOKING IN PUBLIC PLACES, PLACES OF
EMPLOYMENT, OTHER AREAS, AND MULTI-UNIT HOUSING

6.14.010 - Definitions.

A. The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

22. "Smoke" means the gases and particles released into the air by combustion, electrical ignition or vaporization, including from an electronic smoking device, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the resulting gases, particles or vapors combustion products, such as, for example, tobacco smoke and ~~marijuana~~ *cannabis* smoke, except when the combusting material contains no tobacco ~~or cannabis~~ and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense.

28. *"Cannabis" shall have the same meaning as set forth in Section 18.04.101 of the CMMC.*

6.14.110 - Smoking and smoke generally.

- A. The provisions of this chapter are restrictive only and establish no new rights for a person who engages in smoking. Notwithstanding (1) any provision of this chapter or other provisions of this Code, (2) any failure by any person to restrict smoking under this chapter, or (3) any explicit or implicit provision of this Code that allows smoking in any place, nothing in this Code shall be interpreted to limit any person's legal rights under other laws with regard to smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.
- B. Notwithstanding any other provision of this chapter, smoking ~~marijuana~~ *cannabis* for medical purposes as permitted by California Health and Safety Code sections 11362.7 et seq. is not prohibited by this chapter.
- C. For all purposes within the jurisdiction of the town, nonconsensual exposure to smoke occurring on or drifting into residential property is a nuisance, and the uninvited presence of smoke on residential property is a nuisance and a trespass. Any person bringing a civil action to enforce the nuisance provision contained in this section need not prove an injury different in kind or in degree from injury to others to prove a violation of this chapter.

EXHIBIT B

PROPOSED AMENDMENTS TO TITLE 9 – PEACE SAFETY AND MORALS CHAPTER 9.14 - CONTROLLED SUBSTANCES

The following revisions are proposed in red with deletions in ~~strikeouts~~ and additions in *italics*.

CHAPTER 9.14 - CONTROLLED SUBSTANCES

9.14.010 – Definitions.

“ Cannabis ” shall have the same meaning as set forth in Section 18.04.101 of the CMMC.

9.14.010 - Minors.

No owner, manager, proprietor or other person in charge of any room in any place of business selling or displaying for the purpose of sale any device, contrivance, instrument or paraphernalia for smoking, injecting or consuming ~~marijuana~~ *cannabis*, hashish, PCP, or any controlled substance, as defined in the California Health and Safety Code, other than a drug for which a prescription has been issued, as well as roach clips, shall allow or permit any person under the age of eighteen years to be, remain in, enter, or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian.

9.14.020 - Minors excluded.

No person under the age of eighteen shall be, remain in, enter or visit any room in any place used for the sale, or displaying for the purpose of sale, of devices, contrivances, instruments or paraphernalia for smoking, injecting, or consuming ~~marijuana~~ *cannabis*, hashish, PCP, or any controlled substance, as defined in the California Health and Safety Code, other than a drug for which a prescription has been issued, including roach clips, unless such person is accompanied by one of his or her parents or his or her legal guardian.

9.14.030 - Sale and display rooms.

A person shall not maintain in any place of business to which the public is invited the display for sale, or the offering to sell, of devices, contrivances, instruments or paraphernalia for smoking, injecting, or consuming ~~marijuana~~ *cannabis*, hashish, PCP, or any controlled substance, as defined in the California Health and Safety Code, other than drugs for which a prescription has been issued, including roach clips, unless such display or offering is maintained within a separate room or enclosure from which minors not accompanied by a parent or legal guardian are excluded.

Each entrance to such a room shall be posted with a sign in reasonably visible and legible words, with letters at least two inches in height, that minors, unless accompanied by a parent or legal guardian, are excluded.

9.14.040 - Same—Nuisance.

The distribution or possession for the purpose of sale, exhibition or display in any place of business from which minors are not excluded as set for in this section of devices, contrivances, instruments, or paraphernalia for smoking, injecting or consuming ~~marijuana~~ *cannabis*, hashish, PCP, or any controlled substance, as defined in the California Health and Safety Code, other than drugs for which a prescription has been issued, including roach clips, is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the California

Civil Procedure Code. This remedy is in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this chapter.

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