

**ORDINANCE NO. 971**

**AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA ESTABLISHING A TEMPORARY PROHIBITION ON MEDICAL AND NONMEDICAL CANNABIS-RELATED BUSINESSES FROM LOCATING AND OPERATING IN THE TOWN OF CORTE MADERA PENDING THE ANALYSIS AND CONSIDERATION OF NEW ZONING AMENDMENTS AND OTHER REGULATIONS APPROPRIATE FOR THIS NEW INDUSTRY.**

**FINDINGS:**

**The Town Council of the Town of Corte Madera makes the following findings:**

**WHEREAS**, Corte Madera is a vital and active Town that retains a strong sense of community. The Town strives to retain this atmosphere and a diverse mix of business establishments while promoting the long-term economic health of the community as a whole; and

**WHEREAS**, Corte Madera desires to protect its existing character, including its vibrant and diverse business sector and at the same time create a supportive environment for a variety of uses, including existing residential areas, to thrive in a manner consistent with the community character; and

**WHEREAS**, in September 2015, the California Legislature adopted the *Medical Cannabis Regulation and Safety Act* (MCRSA) in effort to clarify and establish a statewide regulatory framework to oversee the medical cannabis-related businesses; and

**WHEREAS**, on November 8, 2016, California voters approved Proposition 64, known as the *Control, Regulate and Tax Adult Use of Marijuana Act* (with a designated short title of the "Adult Use of Marijuana Act," or "AUMA"), which, among other things, legalized the recreational use of nonmedical marijuana for individuals 21 years of age or older and establishing a state-wide scheme to license businesses in the *nonmedical* cannabis-related industry; and

**WHEREAS**, On June 15, 2017, the California Legislature passed new legislation combining and coordinating government oversight of the State's medical and nonmedical cannabis industries into one master regulatory regime, and it is anticipated that State will begin issuing licenses to medical and nonmedical cannabis-related businesses after January 1, 2018; and

**WHEREAS**, under State law, the Town retains the authority to prohibit any cannabis businesses from operating within its borders, and to the extent such businesses are allowed to operate in the Town, the Town may impose additional regulations on those businesses those imposed by the State; and

**WHEREAS**, the Town of Corte Madera currently prohibits "medical marijuana dispensaries"

within the Town's boundaries, as such uses are defined in the Town's Zoning Ordinance, but does not currently expressly prohibit nonmedical marijuana dispensaries or any other business related to medical or nonmedical cannabis from operating in the Town, nor does it impose any industry-specific regulations on those businesses; and

**WHEREAS**, if the Town of Corte Madera does not adopt regulations that specifically prohibit or regulate cannabis related-businesses prior to January 1, 2018, the State may issue licenses to such businesses to operate within the Town; and

**WHEREAS**, the regulations and licensing requirements enacted by the State of California will likely not be adequately tailored to protect the unique culture and character of the Corte Madera community; and

**WHEREAS**, to adopt permanent cannabis industry specific zoning amendments, the Planning Commission and then Town Council must proceed through a public hearing process – with careful analysis and appropriate community outreach and engagement – to determine whether any cannabis-related businesses should be allowed to operate in the Town and, if allowed to operate, how those businesses should be regulated.

**WHEREAS**, there is likely insufficient time for the Town to undertake and complete the Planning Commission and Town Council public hearing process necessary for permanent zoning amendments to take effect prior to January 2018 when the State anticipates it will begin licensing cannabis-related businesses.

**WHEREAS**, allowing State to issue cannabis-related businesses licenses to physically locate and operate in the Town of Corte Madera before the Town considers the extent to which, and conditions under which, such businesses may be allowed to operate in Corte Madera would pose an immediate threat to public health, safety and/or welfare to Corte Madera residents and business community by irreparably changing the small-town, family-oriented, residential character of the community that Corte Madera residents have long sought to thoughtfully create and maintain and impeding the Town’s goals for a diverse business community that is compatible with that character; and

**WHEREAS**, the Town’s approval of building permits, use permits, or other permits or licenses for cannabis-related businesses licensed by the State to locate and operate in Corte Madera, as would be required under the Town’s current zoning ordinance, would likewise result in an immediate threat to public health, safety and/or welfare, by hampering and irreparably impeding the Town’s goals for a diverse business community that is compatible with the small-town, family-oriented, residential character of the Town; and

**WHEREAS**, the Town needs a reasonable period of time to properly and carefully consider and conduct further study into whether to allow any medical and/or nonmedical cannabis businesses to operate in the Town, and if such businesses are to be allowed to operate, how to regulate those businesses.

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

Section 1. The above recitals and findings are incorporated herein by this reference.

Section 2. Except as set forth in Section 3, all medical and/or nonmedical commercial cannabis activity, as defined in Section 26001 of the California Business and Professions Code, is hereby prohibited in every zoning district within the Town of Corte Madera. The Town and its agents, employees and departments shall not approve any business licenses, building permits, planning entitlements, or any other license, permit, or entitlement for such activity) on any property located within the Town of Corte Madera.

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Section 3. This ordinance does not prohibit medical and/or nonmedical cannabis delivery, as defined in Section 26001 of the California Business and Professions Code, to retail customers located within the Town of Corte Madera by any state-licensed business physically located outside of the Town of Corte Madera.

Section 4. While this ordinance is in effect, the Town shall process any and all applications for the land uses, development or building Town for the business activities defined in Section 2, but if those applications are acted upon prior to the expiration of this ordinance, they shall be denied.

Section 5. This ordinance is categorically exempt from CEQA under: (a) Section 15308 of the State CEQA Guidelines because it is a regulatory action taken by the Town in accordance

with Cal. Gov't Code §65858 to assure maintenance and protection of the environment; (b) Section 15060(c)(2) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and (c) Section 15061 because it can be seen with certainty that there is no possibility that the adoption of the ordinance may have a significant effect on the environment since the ordinance prohibits physical changes for a specified period of time.

Section 6. This is an urgency ordinance and it shall become effective immediately upon its adoption if adopted by at least four-fifths of the Town Council and shall be in effect for forty five days from the date of adoption unless extended by the Town Council as provided for in Cal. Gov't Code section 65858.

Section 7. 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 this 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, phrase or clauses be declared unconstitutional on their face or as applied.

Section 8. The Town Clerk shall cause this ordinance to be published and/or posted within fifteen days after its adoption, but any failure by the Town Clerk to publish and/or post this ordinance as required by this Section shall not alter the effectiveness of this ordinance.

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This ordinance was adopted on the 19th day of September, 2017, by the following vote, to wit:

AYES: BAILEY, CONDON, FURST, RAVASIO  
NOES: - NONE -  
ABSENT: ANDREWS  
ABSTAIN: - NONE -

  
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DIANE FURST  
Mayor of the Town of Corte Madera

Attest:

  
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REBECCA VAUGHN

Town Clerk of the Town of Corte Madera

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Approved as to form:

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TERESA STRICKER  
Town Attorney of the Town of Corte Madera