

ORDINANCE NO. 978

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA EXTENDING, FOR ONE YEAR ORDINANCE NO. 971, FOR A TEMPORARY PROHIBITION ON MEDICAL AND NONMEDICAL CANNABIS-RELATED BUSINESSES 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 than 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 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 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 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, on September 19, 2017, the Town Council of Corte Madera adopted an urgency ordinance (Corte Madera Ordinance No. 971) pursuant to California Government Code Section 65858 temporarily prohibiting all 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. Ordinance No. 971 remained in effect for 45 days from its adoption, until November 3, 2017; and

WHEREAS, as required by Section 65858(d), the Corte Madera Town Council has accepted, by approving Resolution 52/2017 on October 17, 2017, a report describing the measures taken to alleviate the conditions that led to the adoption of Ordinance 971. Such measures include: 1) Town staff gathering information and conducting additional research related to the types and operational characteristics of the cannabis-related business industry; 2) staff attending seminars related to regulatory best practices; 3) staff discussing and sharing information with planning staff from other local jurisdictions to understand the regional regulatory response and other jurisdiction's policy direction; and 4) staff initiating the development of a draft work plan, including a general timeline for obtaining public input and conducting required public hearings for zoning amendments. These efforts were intended to deepen Staff's understanding of the new cannabis industry and identify key issues that should be considered by the Planning Commission and Council when assessing new regulations to govern the cannabis industry; and

WHEREAS, the Town needed additional time to properly and carefully consider and conduct further study, and bring forward to the Planning Commission, and ultimately the Town Council, to allow the Town to determine 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, and to adopt the necessary legislation to implement those policy decisions; and

WHEREAS, on October 17, 2017 the Council extended Ordinance No. 971 another 10 months and 15 days (with the approval of Ordinance 972) through the date of September 18, 2018, giving the Town time to complete that process without imposing an immediate threat to public health, safety and welfare to Corte Madera residents; and

WHEREAS, Town requires additional time to complete its review of this matter including, but not limited to, Town meetings and public hearings before the Planning Commission and Town Council prior to prohibiting or adopting any regulations; and

WHEREAS, Town Council accepted a Report Describing the Measures Taken to Alleviate the Condition Which Led to the Adoption of Interim Ordinance No. 971 for the temporary prohibition of medical and nonmedical cannabis related businesses from locating and operating within the Town of Corte Madera (Resolution 48/2018);

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. Ordinance Nos. 971 and 972, adopted as interim urgency ordinances by the Town Council on September 19, 2017 and October 17, 2017 respectively, are hereby extended for an additional year. Ordinance No. 978 expires on September 18, 2019 and cannot be extended again under Cal. Gov't Code Section 65858.

Section 3. 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 4. 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 5. This ordinance takes effect immediately upon its adoption by at least a four fifths affirmative vote of the Town Council. 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.

This ordinance was adopted on the 21st day of August, 2018, by the following vote, to wit:

AYES: Andrews, Beckman, Kunhardt, Ravasio

NOES: - None -

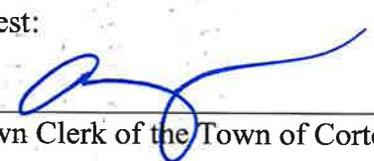
ABSENT: Bailey

ABSTAIN: - None -



Mayor of the Town of Corte Madera

Attest:


Town Clerk of the Town of Corte Madera

Approved as to form:

Judith J. Propp, Ass't. Town Attorney
FOR Town Attorney of the Town of Corte Madera

