

Impartial Analysis of City of Encinitas Measure __

Measure __, known as the “The City of Encinitas Cannabis Business Tax Measure” (“Measure”) would authorize the Encinitas City Council (“Council”) to adopt one or more ordinances to impose a general tax (“Cannabis Business Tax”) for revenue purposes upon cannabis and hemp businesses, as defined, that engage in business in the City of Encinitas (“City”).

The Cannabis Business Tax may only be levied based upon business gross receipts at rates of between four to seven percent (4% to 7%) on retail cannabis uses and one to four (1% to 4%) on non-retail uses, except for cultivation. Commercial cannabis or commercial industrial hemp cultivation may only be taxed on square footage at rates of between two to ten dollars (\$2 to \$10) per canopy area. Any future changes or amendments to any Encinitas Municipal Code section affected by or adopted pursuant to the Measure may occur in the manner set forth in the California Government Code and the City’s Municipal Code, except that any increase above, or reduction below, the amounts specified in the Measure must first be approved by a vote of the electorate at a municipal election. The specific tax rate or rates authorized by the Measure may be set by ordinance or resolution of the City Council.

The Cannabis Business Tax is not a sales or use tax, a tax upon income, or a tax upon real property and shall not be calculated or assessed as such. The Cannabis Business Tax may not be separately identified or otherwise specifically assessed or charged to any member, customer, patient, or caretaker. The Cannabis Business Tax is a general tax enacted solely for general, governmental purposes of the City and is expected to generate an estimated \$800,000 to \$1,400,000 annually. All of the proceeds from such tax would be available for any lawful municipal purpose.

As defined in the Measure, “Cannabis business” means any activity by any person involving cannabis or industrial hemp, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and/or wholesaling of cannabis, cannabis products, industrial hemp, industrial hemp products and/or of ancillary products and accessories, whether or not carried on for gain or profit, but does not include personal cultivation of cannabis pursuant to Health and Safety Code Section 11362.2 or the Compassionate Use Act and the Medical Marijuana Program Act.

This Measure was placed on the ballot by the City Council. Existing law requires that the City license a minimum of four retail cannabis businesses; other types of cannabis business must be allowed and are not specifically limited in number. A “no” vote would continue the existing inability of the City to levy a tax on these commercial cannabis uses within the City.

THE ABOVE STATEMENT IS AN IMPARTIAL ANALYSIS OF MEASURE __. IF YOU WOULD LIKE A COPY OF MEASURE __, PLEASE CONTACT THE ENCINITAS CITY CLERK’S OFFICE AT (760) 633-2601 AND A COPY WILL BE MAILED TO YOU AT NO COST AND IS ALSO AVAILABLE ONLINE AT

<https://encinitasca.gov/Government/Municipal-Elections>

Dated: August 3, 2022
s/ Tarquin Preziosi
City Attorney

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CITY OF ENCINITAS
CITY CLERK