

# CITY OF ENCINITAS

(This Measure will appear on the ballot in the following form.)

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## MEASURE H

Shall the electors of the City of Encinitas adopt the citizen initiative titled "An Ordinance of the City of Encinitas Authorizing Commercial Cannabis Activities Involving Retail Sales, Cultivation, Manufacturing, Cannabis Kitchens and Distribution, and Personal Use Cultivation, Subject to Certain Regulations and Restrictions."

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This measure requires approval of a simple majority (50% plus 1) of those voting on the measure.

### CITY ATTORNEY IMPARTIAL ANALYSIS

#### **An Ordinance of the City of Encinitas Authorizing Commercial Cannabis Activities Involving Retail Sales, Cultivation, Manufacturing, Cannabis Kitchens and Distribution, and Personal Use Cultivation, Subject to Certain Regulations and Restrictions**

Measure H is a measure placed on the ballot by a petition signed by the requisite number of voters of the City of Encinitas. Measure H would amend current zoning to allow cannabis retail, cultivation, product manufacturing, and distribution in specified zones, subject to restrictions and regulations for each activity and issuance of a business license by the City Manager.

Currently, Encinitas Municipal Code (the "Code") Chapter 9.21 prohibits, to the extent state law allows, each and every marijuana and marijuana-related use and activity, including sales, cultivation, manufacturing, distribution, transportation (delivery), storage, and testing. Without addressing Chapter 9.21, Measure H would allow uses and activities not currently allowed.

The following cannabis activities would be allowed in specified zones:

- Retail sale and delivery – commercial land use zones, including certain Commercial, General Commercial, Commercial Mixed Use, and Mixed Use Land Use;
- Cultivation -- Agricultural;
- Product manufacturing -- Business Parks ("BP"), Light Industrial ("LI"), Agricultural;
- Cannabis Kitchens -- BP, LI, General Commercial;
- Distribution -- BP, LI;
- Industrial hemp -- Agricultural.

Measure H would also allow personal and personal medical use cultivation up to 100 square feet indoors for qualified patients and primary caregivers without limitation to particular zones.

Cannabis retailers may engage in retail sales and delivery, with restrictions including:

- At least four licenses shall be granted to retailers, subject to City Council increase
- 1,000 foot separation from day care centers, playgrounds, schools or other retailers
- No on-site medical consultations
- Security guard presence 24 hours per day
- Operating hours 7:00 a.m. to 9:00 p.m.
- Signage, lighting, and contact information posting requirements

## CITY ATTORNEY IMPARTIAL ANALYSIS (CONTINUED)

Commercial cannabis cultivation restrictions include:

- Cultivation only within interior of building or greenhouse
- Tracking and record-keeping in compliance with State law and available to City
- No visual evidence of cultivation from public right-of-way
- “Public nuisance” conditions subject licensee to penalties, suspension or revocation
- Environmentally-sustainable cultivation preference

Product manufacturing restrictions include:

- No use of volatile solvents
- No edible cannabis production
- Compliance with California Department of Public Health regulations

Cannabis Kitchen sites would be subject to:

- No cannabis concentrate extraction
- Compliance with California Department of Public Health regulations
- Food safety and permitting requirements

Industrial Hemp would be subject to:

- California Food and Agriculture Code compliance
- “Public nuisance” conditions may subject licensee to penalties, suspension or revocation

Cannabis cultivation, product manufacturing, kitchens, and distribution all require security cameras, alarms, and guard and prohibit external signage or public access or sales.

City regulations for business licensing/permitting are located at Title 6 of the Code. Measure H separately contains regulations for Cannabis Business licenses, including:

- Background checks and prohibitions for any person convicted of a serious or violent felony from operating, managing, controlling or owning a business
- Written permission from building owners/management to conduct a business
- Experienced operator preferences
- Ineligibility for past illegal operations
- Reasonable registration/annual fees
- Revocation or suspension due to loitering, smell or noise complaints, or regulatory noncompliance
- Lottery selection for retail sales applications

If passed, Measure H would only be amended by a vote of the people, with two exceptions for City Council adjustments.

A majority “Yes” vote on Measure H would change City zoning to allow certain cannabis activities and uses. A majority “No” vote would keep existing zoning and prohibitions.

*Prepared by: Leslie E. Devaney, City Attorney*

The above statement is an impartial analysis of Measure H. If you desire a copy of the measure, please call the City Clerk’s office at (760-633-2601) and a copy will be mailed at no cost to you.

## ARGUMENT IN FAVOR OF MEASURE H

Measure H, Cannabis Activity Zoning Ordinance of Encinitas, will bring licensed cannabis retail businesses to Encinitas and a local supply chain with cultivation, distribution, and cannabis kitchens. Measure H also allows farmers to grow industrial hemp.

In 2016, 65% of Encinitas voters supported Proposition 64 to legalize adult-use cannabis. Despite this support, Encinitas has no legal cannabis businesses. This means residents who want safe, legal cannabis must travel to other cities or receive a delivery. Thus, revenue from legal cannabis sales leaves Encinitas rather than supporting local businesses. More worrisome, some people continue to buy from the black market.

Measure H will ensure safe and legal access with locally licensed cannabis retail and delivery. This will help drive out the black market, reducing access to cannabis by youth. It will lower prices for legal cannabis and give local qualified patients access to the medicine they need.

Measure H will support Encinitas's economy. New businesses will create jobs for residents and generate sales taxes for the City. Current and past local employers receive an advantage in seeking retail licenses. By allowing cultivation of cannabis and industrial hemp, local farmers will have a new and needed source of revenue.

Measure H ensures that local and state government will regulate cannabis in Encinitas. This means safe products for consumers and businesses located where they belong. Retailers must be 1,000 feet away from schools, daycare centers, playgrounds, and other cannabis retailers.

Measure H allows for four retailers only until if and when the City Council increases the number, and mandates that operators have prior experience in the regulated cannabis industry, pharmaceutical industry, or Encinitas economy.

Please support Measure H for a safe, regulated, and thriving local cannabis industry in Encinitas.

Robert Jordan Hall  
Proponent and Encinitas Resident

Jeffrey Anshel  
Optometrist and Encinitas Resident

Bob E. Blake MD  
Physician and Encinitas Resident

Nathan Fletcher  
County Supervisor

Valerie M. Viramontes  
Encinitas Resident

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE H

Measure H proponents imply that Encinitas citizens are seeking an entire supply chain of marijuana storefronts, cultivation, distribution, and marijuana kitchens. This is NOT true. Only the marijuana industry wants this. In fact 80% of California cities do NOT permit marijuana businesses.

Measure H is NOT about Prop. 64 which was about PERSONAL use and grow. It IS about retail marijuana businesses forced on cities who did NOT ask for them.

Marijuana storefronts will NOT bring any tax dollars to Encinitas. Measure H does NOT allow Encinitas to collect a tax.

Measure H will not improve the financial picture for Encinitas. The financial impact on Encinitas to permit and control marijuana businesses will be monumental. Neither California nor Encinitas have the capacity to ensure product safety or enforce marijuana laws.

Measure H will NOT remove the black market. The black market has steadily increased since Prop 64 passed. California already produces up to 10 times more marijuana than is consumed. Surplus product feeds the black market.

Measure H is not necessary to ensure marijuana access since access to marijuana is easily a computer click away.

Measure H can only be amended by another expensive ballot measure. Encinitas will have no local control over the marijuana businesses, or the permitting process because it is dictated by Measure H's language.

Measure H will commercialize and normalize marijuana. Studies link the presence of marijuana storefronts to more use by teens and young adults who will interpret them as permission to use.

Vote NO on Measure H

Kevin R. Smith  
Telecom Mgr./Youth Minister/33 year resident

Beatriz Villarreal  
Latino Parent Educator/31 year resident

Beth Hergesheimer  
President, San Dieguito Union High School  
Board of Trustees

Michael A. Bendix  
CEO DFPG Investments/20 year Encinitas  
Resident

Michael J. Poponyak  
Vice President/Investments/40 year Encinitas Resident

## ARGUMENT AGAINST MEASURE H

Don't Be Misled. Measure H is not about your choice to use marijuana or grow your own which is already legal. This is about the loss of local control and maintaining the character of Encinitas.

Measure H would allow at least four marijuana retail stores in any commercial zone. They will be 1000 feet from schools and playgrounds but there is no separation requirement from churches, parks or any youth serving facilities. Cameras, alarms and security guards are required 24 hours a day since marijuana retail stores are crime magnets for robberies of cash and product.

With Measure H, the city will have NO local control over land use decisions and how marijuana businesses operate. Residents will have no voice. This is a blanket ordinance with unintended consequences including disruption to neighboring businesses and reduced commercial property values. The character of Encinitas will greatly change if the city does not retain land use control.

Measure H would allow cultivation and marijuana factories. Cultivation produces a pungent odor which permeates residential neighborhoods. Products manufactured from marijuana include highly potent concentrates used to make edibles and vape products that are proven to cause severe respiratory problems.

Measure H allows unlimited factories, distribution and cultivation sites with no distance separation to schools, playgrounds, churches or each other.

Regulation is costly. The state does not have the capacity to enforce laws or guarantee marijuana product safety. This creates additional regulatory and financial burdens on Encinitas.

This measure was brought forward by well paid, out-of-town signature gatherers and an association of marijuana industry storefront owners who only want to make a profit.

Measure H cannot be changed without a new and expensive ballot measure at high taxpayer cost.

This measure will diminish the environment and community charm of Encinitas.

Vote NO on Measure H

Tony Kranz  
Encinitas City Council Member

John Patrick Davis, D.D.S., M.S.  
Pediatric Dentist - 41 years in Encinitas

Emily R. Andrade  
Encinitas Union School District Board of  
Trustees Member

Debbie McCauley  
Real Estate Broker

Nancy Logan  
San Dieguito Alliance for Drug Free Youth Prevention Specialist

## **REBUTTAL TO ARGUMENT AGAINST MEASURE H**

Measure H will bring California's most regulated industry to Encinitas. Cannabis businesses must comply with Measure H, the Encinitas Municipal Code, and hundreds of state laws and regulations. Licensees must minimize impacts on surrounding businesses, including odor and noise. They must document every transaction, track every product, and record every action – and provide all records to state and local regulators.

Licensees pay all costs of regulation – leaving no bill for taxpayers. If licensees break rules, they can lose permits, pay fines, and even face criminal charges.

Measure H will bring safe, tested cannabis to adults in Encinitas. Legal cannabis in California must pass the nation's most rigorous cannabis testing requirements. By contrast, black market cannabis products can contain unsafe additives scientists believe cause VAPI.

Measure H allows for local control and local opportunity. Retail outlets are capped at four citywide, until if and when the City Council increases the number. They must be 1,000 feet away from each other and where children congregate. Cultivators, distributors, and manufacturers can operate only in industrial or agricultural zones alongside equivalent uses.

Cannabis retailers improve their communities. When legal cannabis retail opens, neighboring businesses see new customers and increased foot traffic. Because of enhanced security measures, crime goes down nearby. Cannabis retail and increased sales at neighboring businesses generate substantial sales tax revenue for the City.

Don't believe the false claims of the opposition. A vote for Measure H is a vote for consumer safety, economic growth and law-abiding businesses.

Bob E. Blake M.D.  
Physician and Encinitas Resident

Valerie M. Viramontes  
Encinitas Resident

Marco Gonzalez  
Land Use Expert/Encinitas Homeowner

Kate Robinson  
Encinitas Resident and Mother