

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE M

START  
The Santa Clara City Council has placed Measure M on the ballot which, if approved by the voters, would enact a Cannabis Business Tax on cannabis businesses operating in the City. The Cannabis Business Tax is a general tax enacted by simple majority vote for general municipal purposes such as fire/police/911 services, road repairs, and library services. All tax proceeds would go to the City's General Fund.

The Cannabis Business Tax is not a sales tax or a property tax. The tax would only affect businesses that engage in commercial cannabis (marijuana) operations by imposing a tax levied on the basis of gross receipts or square footage of canopy, depending on the activity involved. "Gross receipts" is generally defined as the revenue received by cannabis businesses for sales before deducting expenses. The plant "canopy" of a cultivation business is generally defined as the maximum area occupied by any portion of a cannabis plant. The tax would not apply to personal use of cannabis allowed under state law.

Currently, cannabis businesses are not allowed to operate in the City of Santa Clara. Approval of Measure M would not change this. However, the City Council will separately consider modifying Title 18 ("Zoning") of the City Code to allow cannabis businesses in certain areas. If this Measure is adopted, the tax would take effect at the later of ten (10) days after City Council certification of election returns, or when commercial cannabis is permitted in Santa Clara.

The Measure will set the **maximum** tax rate for all commercial cannabis businesses at ten percent (10%) of gross receipts or \$25 per square foot area of cultivation. However, initial rates shall be as follows:

- Retail: 5% of gross receipts
- Manufacturing: 5% of gross receipts
- Cultivation: greater of \$6 per sq. ft. of canopy or 5% of gross receipts
- Distribution: 3% of gross receipts
- Nurseries: 3% of gross receipts
- Testing: 3% of gross receipts
- Transportation: 3% of gross receipts

The City Council may, once per year, increase or decrease the tax rates, up to the maximum rates stated in the Measure.

The Ordinance includes provisions for collection of the tax (monthly or quarterly), handle delinquencies, impose penalties or interest, handle appeals/refunds, and enforce the taxing provisions. Cannabis businesses will be subject to City audit, including review of documents, tax returns and operations. Such businesses are also required to comply with other permitting and business tax requirements.

A "Yes" vote on Measure M would adopt the Cannabis Business Tax Ordinance. A "No" vote would not adopt the Cannabis Business Tax Ordinance.

The above statement is an impartial analysis of Measure M. The full text of the measure is available at [www.santaclaraca.gov](http://www.santaclaraca.gov) or by calling the City Clerk's Office at 408-615-2220, and a copy will be sent to you at no cost.



BRIAN DOYLE  
City Attorney

FILED

AUG 21 2018

REGISTRAR OF VOTERS  
COUNTY OF SANTA CLARA  
By PN Deputy

END