

**City Attorney's Impartial Analysis of the Fifth Ballot Measure
Measure __
November 6, 2018 Election**

[Submitted pursuant to Elections Code section 9280]

Ballot Question:

Shall an ordinance be adopted to tax any cannabis business operating within the City at annual rates not to exceed \$2.00 to \$10.00 per square foot for cultivation (inflation adjustable), and 6% of gross receipts for retail, 2.5% for testing, 3% for distribution, and 4% for manufacturing, levied until repealed, estimated to raise at least approximately \$64,000 annually from deliveries and potentially more if other businesses are allowed, to fund general City services and expenses?

Impartial Analysis:

This Measure is an ordinance that was placed on the ballot by the City Council for the City of Half Moon Bay. If approved, the Measure would amend the Half Moon Bay Municipal Code to establish a new cannabis business tax.

“Cannabis” is also known as “marijuana.”

The Municipal Code currently prohibits cannabis businesses. This Measure would not change that prohibition.

The Municipal Code currently requires most businesses conducting transactions in the City to pay a general business tax of between \$100 and \$1,525 annually. This Measure would impose a cannabis-specific business tax on cannabis businesses that could exceed those rates.

The tax would apply to businesses that deliver cannabis to Half Moon Bay from outside the City. It would also apply to other types of cannabis business that might be allowed in the future, if the City's current ban is amended by the voters or the City Council. For instance, the tax would apply to cannabis nurseries that could be established if a separate Measure on this ballot passes.

The tax proposed by the Measure is a general tax, which means that the proceeds could be used by the City for any municipal governmental purpose. This includes funding City services and expenses.

A consultant for the City estimated potential tax revenues from various types of cannabis businesses. Based on mid-point estimates in that report, the Measure can be expected to generate approximately \$64,000 annually from cannabis delivery businesses. If the City allowed commercial cannabis greenhouse cultivation, retail sales, and manufacturing, the Measure can be expected to generate approximately \$692,600 annually, based on the low tax-rate estimates in the report, and more if higher tax rates are imposed.

The Measure authorizes the City Council to set and adjust the rate of the tax up to a maximum rate. The Measure sets the maximum rate for each type of business as follows:

- Cultivation: \$10.00 per square foot of canopy in a facility that uses exclusively artificial lighting. \$7.00 per square foot of canopy in a facility that uses a combination of natural and artificial lighting. \$4.00 per square foot of canopy in a facility that uses no artificial lighting. \$2.00 per square foot of canopy for a nursery. Starting in 2022, these maximum rates increase to reflect inflation.
- Testing laboratories: 2.5% of gross receipts.
- Retail sales (dispensary or delivery): 6% of gross receipts.
- Distribution: 3% of gross receipts.
- Manufacturing and processing: 4% of gross receipts.

On July 31, 2018, the City Council set initial tax rates that are lower than these maximum rates, which would go into effect if the Measure passes.

The Measure includes procedures for tax reporting, remittance, and enforcement.

The City Council could repeal or amend the cannabis business tax ordinance without a vote of the people, subject to constitutional exceptions. The tax would stay in effect until it is repealed.

A “Yes” vote is a vote to approve the Measure.

A “No” vote is a vote to reject the Measure.

This measure must receive a majority of “yes” votes to pass.

Submitted August 13, 2018

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City of Half Moon Bay