

MEASURE C

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE C

Measure C was placed on the ballot by the Campbell City Council. The measure would continue the City's current prohibition on marijuana dispensaries until at least April 1, 2019, at which time the Council would have discretion to adopt ordinances allowing medical marijuana dispensaries, subject to certain restrictions set forth in the measure.

The use and sale of marijuana remains illegal under Federal law. Under State law, persons who possess or cultivate marijuana for personal medical purposes with the recommendation of a physician are exempt from criminal prosecution; and persons 21 years old and older can use marijuana for non-medical purposes. State law also provides that cities must allow persons to grow up to six marijuana plants for personal use at their residence. Campbell's ordinances require the six plants to be grown indoors, subject to additional restrictions set forth in the Municipal Code, such as compliance with building codes, and a prohibition on the use of certain chemicals. Commencing on February 16, 2017, medical marijuana can be delivered to qualified patients in Campbell from dispensaries outside of the City. Dispensaries are not currently allowed in the City.

Measure C would amend the Municipal Code to continue the City's prohibition on dispensaries until at least April 1, 2019. The stated purpose of this moratorium is to provide time to fully study the impacts of marijuana dispensaries, and assess whether the existence of deliveries and personal cultivation provides adequate access to marijuana for qualified patients. Beginning on April 1, 2019, the Council could adopt ordinances allowing dispensaries in Campbell. However, the Council would not be required to do so. Measure C provides that dispensaries could not be located in any residential, Planned Development, or Condominium Planned Development zoning district. Additionally, any building containing a dispensary would need to be at least 600-feet from any day care, preschool, park, school serving kindergarten through twelfth grade, the Campbell Community Center, or any other dispensary. Measure C also provides that buildings containing dispensaries would need to be at least 100-feet from any of the zoning districts in which dispensaries are prohibited, and any property containing a legally existing residence. The Council could adopt more restrictive provisions as necessary to protect the public health, safety, or welfare. The existing Municipal Code provisions governing the cultivation of marijuana for personal use and the delivery of medical marijuana would remain unchanged.

By its terms, Measure C conflicts with the provisions of Measure B of this election. Measure B would require the City to establish procedures to allow up to three dispensaries in Campbell, including in Planned Development districts. Measure C provides that if both measures receive a majority of votes cast in their favor, but Measure C receives a higher number of affirmative votes than Measure B, the provisions of Measure C shall supersede Measure B in its entirety, and the provisions sought to be enacted by Measure B shall be null and void.

/s/ William R. Seligmann
City Attorney of Campbell

COMPLETE TEXT OF MEASURE C

AN ORDINANCE OF THE PEOPLE OF THE CITY OF CAMPBELL AMENDING SECTION 8.38.030 OF THE CAMPBELL MUNICIPAL CODE REGARDING MEDICAL MARIJUANA

The People of the City of Campbell do ordain as follows:

Section 1: Title. This ordinance shall be known as the Campbell Responsible Regulation of Medical Marijuana Act.

Section 2: Findings and Declarations.

- A. Many people find that marijuana provides them with relief from a number of ailments.
- B. However, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 *et seq.*, the use, possession, and cultivation of marijuana are unlawful; and many California cities, as well as the City of Campbell, have reported negative impacts of marijuana processing and dispensing activities, including but not limited to:
 1. Dispensaries are home to marijuana crops and large amounts of cash, thereby making them targets for criminal activity. Jurisdictions with medical marijuana dispensaries report crime such as armed robberies, felony assaults, organized crime (particularly in the supply chain), and money laundering;
 2. Many California cities, as well as the City of Campbell, have experienced trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests related to marijuana cultivation and dispensing;
 3. Quality of life concerns also associated with dispensaries include, loitering, diversion of marijuana to non-patients (e.g. "shoulder tapping"), increased prevalence of marijuana smoking in public and increased use of marijuana by minors;
 4. Marijuana grown or stored onsite can create strong odors which are offensive to many people and detectable far beyond property boundaries;
 5. The strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery;
 6. The indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building; and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants;
 7. According to information from the City of San Jose, it is not uncommon for medical marijuana dispensaries to have between 500 and 700 customers on a daily basis. This is approximately 50 people per hour who arrive on

COMPLETE TEXT OF MEASURE C-Continued

foot and in vehicles, which can have a substantial impact on traffic congestion and parking in both residential and business districts; and

It would cost the City of Campbell an estimated \$968,537 in staff costs annually to regulate up to 3 dispensaries.

- C. The Statewide ballot measure known as Proposition 64, requires all cities to allow the cultivation of up to 6 marijuana plants per residence for the personal use of the residents;
- D. In order to balance the needs of qualified patients with the adverse impacts of the cultivation, dispensing and processing of medical marijuana, the City Council of the City of Campbell adopted a series of ordinances that:
 - 1. Allow for delivery of medical marijuana to qualified patients in the City;
 - 2. Limits the cultivation of the 6 plants per residence allowed under State law to indoor cultivation, subject to restriction designed to protect the safety and integrity of the surrounding neighborhoods, as well as the safety of the residential structures;
 - 3. Prohibits marijuana dispensaries and processing, and the commercial sale or distribution of marijuana for non-medical purposes.
- E. An initiative petition has qualified for a special election in the City of Campbell that would allow up to 3 dispensaries in the City, and increased cultivation of marijuana. Under the initiative petition:
 - 1. Dispensaries could be located in Planned Development zoning districts, which includes areas developed for residential use;
 - 2. Dispensaries could abut residentially zoned properties, except on the side of the dispensaries on which the dispensary has entrances or exits, or where the entrance or exit is on a side that shares a corner with a residential zoned property. Dispensaries could also abut legally existing residences that currently exist in non-residential zoning districts;
 - 3. Dispensaries could be located near daycare operation, parks, and homes;
 - 4. Patients could cultivate up to 100 square feet of marijuana plants without a license from the City;
 - 5. Caregivers could cultivate up to 500 square feet of marijuana plants without a license from the City; and
 - 6. No restriction is placed on where cultivation can take place.

Section 3: Purpose. This measure is intended to balance the needs of qualified patients to obtain medical marijuana with the need

COMPLETE TEXT OF MEASURE C-Continued

to preserve the quality of life for all of the citizens of the City of Campbell. Under the laws currently adopted in Campbell, qualified patients enjoy the ability to have medical marijuana delivered directly to them, as well as the right to grow up to 6 plants for their personal use. Allowing patients to obtain medical marijuana in this fashion has a far less intensive impact on the City than allowing dispensaries. The City needs time to assess whether or not the ability to obtain medical marijuana through deliveries and limited, personal cultivation provides adequate access for qualified patients, as well as to fully study the impacts marijuana dispensaries in other communities, and learn from their experiences. In order to further this intent, this measure would continue the City's current ban on dispensaries up through at least April 1, 2019. After April 1, 2019, the Campbell City Council would have discretion to allow a reasonable and appropriate number of dispensaries in the City, provided that the dispensaries could not be located near any sensitive use or other dispensary.

Section 4: Dispensaries. Campbell Municipal Code section 8.38.030 is hereby amended to read as follows:

8.38.030 Prohibited Activities; Exceptions.

A. Except as provided in subsections B, C, D and E of this section, Marijuana Processing, Marijuana Delivery, Marijuana Cultivation, and Marijuana Dispensaries shall be prohibited activities in the City. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of Marijuana Processing, Marijuana Delivery, Marijuana Cultivation, or the establishment or operation of a Marijuana Dispensary in the City, and no person shall otherwise establish or conduct such activities in the City.

B. The prohibitions set forth in subsection A shall not apply to the extent that such prohibitions are preempted by applicable State or Federal law.

C. Notwithstanding subsection A, Marijuana Cultivation is allowed for personal medical use to the same extent, and under the same restrictions as allowed for personal use pursuant to Campbell Municipal Code section 8.40.040.

D. Notwithstanding subsection A, Marijuana Delivery shall be allowed from Marijuana Dispensaries located outside of the City of Campbell to Qualified Patients in the City of Campbell, subject to the following restrictions:

1. Only Marijuana Dispensaries that are licensed under the applicable laws of the State of California, including but not limited to the Medical Cannabis Regulation and Safety Act (California Business and Professions Code sections 19300 et. seq.) and are operating in compliance with the applicable laws of the local jurisdiction in which the Marijuana Dispensary is located shall be allowed to provide Marijuana Delivery to a Qualified Patient in the City of Campbell;

2. Prior to commencing Marijuana Deliveries to Qualified Patients in the City of Campbell, the Marijuana Dispensary shall register with the Police Department of the City of Campbell, and

COMPLETE TEXT OF MEASURE C-Continued

provide proof that the Marijuana Dispensary is licensed under the applicable laws of the State of California and operating in compliance with the applicable laws of the local jurisdiction in which the Marijuana Dispensary is located;

3. Prior to commencing Marijuana Deliveries to Qualified Patients in the City of Campbell, the Marijuana Dispensary shall provide the Campbell Police Department with the names and driver's license numbers of all persons who will be conducting the deliveries; and the Marijuana Dispensary shall notify the Campbell Police Department of any changes in the identities of the persons conducting the deliveries within twenty-four hours of any change in that information; and

4. Annually, prior to July 1st of each year, the Marijuana Dispensary shall provide the Campbell Police Department with proof that the Marijuana Dispensary's license under the applicable laws of the State of California and authorization to operate in the local jurisdiction in which the Marijuana Dispensary is located is current and in effect

E. Notwithstanding anything contained in this section or section 8.40.040 to the contrary, on or after April 1, 2019, but not before then, the City Council may adopt an ordinance prescribing rules and regulations allowing for the operation of a reasonable and appropriate number of Marijuana Dispensaries, provided that:

1. No Marijuana Dispensary shall be located within any zoning district zoned for residential use;

2. No Marijuana Dispensary shall be located within any Planned Development or Condominium Planned Development zoning district;

3. All Marijuana Dispensary operations must be conducted within a secured, fully enclosed building;

4. No part of any building containing a Marijuana Dispensary shall be located within 100 feet of the closest property boundary of any property zoned for residential use or on which a legally existing residential use is being conducted;

5. No part of any building containing a Marijuana Dispensary shall be located within 100 feet of the closest property boundary of any Planned Development or Condominium Planned Development zoning district;

6. No part of any building containing a Marijuana Dispensary shall be located within 600 feet of the closest property boundary of any property on which child day care facility or preschool is located;

7. No part of any building containing a Marijuana Dispensary shall be located within 600 feet of the closest property boundary of any property on which any schools—K—12, whether public or private are located;

8. No part of any building containing a Marijuana Dispensary shall be located within 600 feet of the closest property boundary of any park or the Campbell Community Center; and

COMPLETE TEXT OF MEASURE C-Continued

9. No property on which a Marijuana Dispensary is located shall be located shall be within 600 feet of any other property on which a Marijuana Dispensary is located, as measured from the closest property boundaries.

Nothing contained in this section shall preclude the City Council from adopting more restrictive provisions should the Council determine that such provisions are necessary to protect the public health, safety, or welfare.

Section 5: Prevalence Over Competing Measure. This measure is, and is intended to be wholly in conflict with the provisions of the initiative measure submitted by Proponent Kale Schulte entitled in section 1 of the petition as the "Campbell Medical Marijuana Regulation and Safety Act of 2016" that proposes adding Chapter 5.56 to the Campbell Municipal to allow up to three marijuana dispensaries in the City. In the event that both measures receive a majority of the votes cast in favor of the measures, but this City Council initiative entitled herein in section 1 as the "Campbell Responsible Regulation of Medical Marijuana Act" receives a higher number of affirmative votes than the measure entitled the "Campbell Medical Marijuana Regulation and Safety Act of 2016," the provisions of this Campbell Responsible Regulation of Medical Marijuana Act shall supersede the measure entitled the "Campbell Medical Marijuana Regulation and Safety Act of 2016" in its entirety, and the addition of Chapter 5.56 to the Campbell Municipal Code shall be null and void.

Section 6: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared, invalid or unconstitutional.

Section 7: The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 8: Effective Date. This ordinance shall become effective upon approval of a majority of voters voting on the measure for approval of this ordinance at the election to be held on April 25, 2017.

ARGUMENT IN FAVOR OF MEASURE C

MEASURE C, allows cultivation and use of personal medical and recreational marijuana in Campbell. In addition, Campbell permits delivery of medical marijuana to qualified patients in Campbell.

MEASURE C is **not a ban**. Measure C temporarily postpones commercial sales for two years. This period gives the State of California time to establish regulations and licensing for safe use of medical and recreational marijuana.

MEASURE C provides time to create rules to **regulate storefronts in a responsible manner that makes sense for Campbell**.

MEASURE C will **ensure the safety of patients and the community** by requiring marijuana businesses to include security measures such as alarm systems, cameras, lighting standards, and restricted hours of operation.

MEASURE C will allow the City to engage the public in open meetings, where **Campbell residents can shape the regulations** to permit medical dispensaries in a responsible, thoughtful and democratic process.

MEASURE C will allow the City of Campbell to determine appropriate locations for medical marijuana businesses **to minimize traffic and parking impacts**.

The Keep Campbell Green Initiative is about opening medical marijuana businesses in Campbell and allows marijuana storefronts to operate adjacent to our homes, daycares, pre-schools, places of worship, and city parks.

It's sponsored by out-of-town special interest groups that put their financial interests ahead of sound policies for Campbell.

It will bring more than 1,500 additional cars every day to our neighborhoods.

It permits large sums of money to be stored on site without mandatory security measures.

It will result in unfunded taxpayer costs exceeding \$950,000 annually.

**Protect Campbell patients and our community.
Vote "Yes" on MEASURE C.**

/s/ J. Hector Moreno, Jr.
Senior Pastor Home Church

/s/ Dan Furtado
Campbell Resident

/s/ Doris C. Quai Hoi
Campbell Resident

/s/ Michael F. Kotowski
Former Mayor, City of Campbell

/s/ Elizabeth Gibbons
Mayor, City of Campbell

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE C

MEASURE C is based on LIES and is misleading.

MEASURE C is **modern-day prohibition**.

MEASURE C ignores the will of the voters.

MEASURE C does not "protect public health".

MEASURE C violates state law.

MEASURE C is an invasion of medical privacy.

MEASURE C does not generate any revenue from dispensaries.

Campbell Citizens,

Please do not be fooled by MEASURE C's unproven claims and scare tactics. Responsibly regulated marijuana industries already exist across the country, providing jobs and tax revenue for the local economy.

NO ON MEASURE C

/s/ Kale Schulte
On behalf of Keep Campbell Green

ARGUMENT AGAINST MEASURE C

MEASURE C is **based on LIES** and is **misleading**. According to the city, only dispensaries can be allowed to deliver marijuana---The problem is Measure C does NOT allow for any dispensaries in Campbell!

MEASURE C is **modern-day prohibition**. Marijuana is already legal in California for recreational use. Its discriminatory to allow over 140 alcohol and liquor licenses in a small city, yet refuse a maximum of 3 dispensaries?

MEASURE C **ignores the will of the voters**. Despite 82% of Campbell resident's approval of medical marijuana, the city has proven to do anything to keep it banned.

MEASURE C **does not "protect public health"**. It simply attracts an already thriving underground market. State law already requires dispensaries to be 600 feet away from schools and sensitive uses. Measure C does not.

MEASURE C **violates state law**. Measure C re-defines a "qualified patient" by stating it must be someone with a "serious medical condition". That determination should be made between a patient and their doctor, not by the city of Campbell.

MEASURE C is **an invasion of medical privacy**. The privacy of a patient is sacred. Their right to cultivate is granted and protected under CA Health & Safety codes. Forced registration with any police department is a violation of that privacy.

MEASURE C **wastes taxpayer's money**. The city has chosen to spend close to \$1,000,000 so that it can prevent a couple of dispensaries from opening. That's about \$30 for every man, woman and child in Campbell.

Campbell Citizens,

Please do not be fooled by MEASURE C's unproven claims and scare tactics. Responsibly regulated marijuana industries already exist across the country, providing jobs and tax revenues for the local economy.

NO ON MEASURE C

/s/ Kale Schulte

On behalf of Keep Campbell Green

REBUTTAL TO ARGUMENT AGAINST MEASURE C

VOTE YES on Measure C

The City of Campbell will not be bullied by out-of town special interests into permitting irresponsible marijuana businesses. That is why the City Council placed Measure C on the ballot and urges your support.

The proponents for Measure B are purposely misleading you. Here are the facts:

- Measure C **is not a ban**. It provides the time to learn from the experiences of the Proposition 64 recreational marijuana program and other cities that have licensed medical marijuana dispensaries.
- Measure C **does not require patients to register** with the City or any police department.
- The City is not "choosing" to spend tax payer money on a Special Election. The qualified petition submitted by Keep Campbell Green **specifically requested and legally required the City to hold this election at a cost of \$463,400**.
- The **cost for placing Measure C on the ballot is only \$35,500**. This is a small price to pay to provide safe regulations that protect children and our neighborhoods.
- Keep Campbell Green's 600 ft. distance requirements are only from schools that teach K-12 grades. **It does not have any distance requirements from preschools, daycare facilities, or parks**. Measure C provides these protections.
- Measure C **does not redefine "qualified patient."** It maintains the definition under the State Medical Cannabis Regulation and Safety Act.

Measure C fixes the irresponsible Measure B Initiative.

Let Campbell residents create rules to govern our own City.
Protect Campbell neighborhoods.

Vote YES on Measure C

/s/ Danielle M.S. Cohen

Member, Campbell Union School District Governing Board

/s/ Donald C. Young

Resident, City of Campbell

/s/ Susan M. Landry

Councilmember, City of Campbell

/s/ Kimi de Leonibus

Officer, Campbell Parks & Recreation Foundation