

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
CITY OF SAN CLEMENTE
MEASURE V**

If adopted, this measure will require City voter approval of any General Plan Amendment, Zoning Ordinance Amendment, or Specific Plan or Specific Plan Amendment that changes the permitted uses of open space lands to non-open space uses, subject to certain exceptions summarized below. This measure does not change the permitted land uses for any property.

The City's General Plan divides lands within the City into various residential, commercial, industrial, institutional, and open space categories. The City's Zoning Ordinance, which must be consistent with the General Plan, implements the land use categories in the General Plan and provides further details regarding permitted uses and development standards in each zoning district. Some properties are governed by a so-called "Specific Plan," which constitutes the zoning for the properties covered by the applicable Specific Plan.

With regard to open space uses in particular, the City has several different open space land use categories/districts which permit various types of recreational and open space uses. Residential and industrial uses are generally prohibited in open space areas and only limited commercial recreational uses are permitted in some (but not all) open space areas.

If any citizen has a question whether a particular property in the City is designated for open space uses or what particular uses may be permitted or prohibited on that property you may call the City's Planning Division during normal City business hours at 949-361-6183 and someone will help you.

In September 2007, the City Council amended the City's General Plan to provide that City voter approval will be required for any General Plan Amendment, Zoning Ordinance Amendment, or Specific Plan or Specific Plan Amendment that converts designated open space lands to non-open space uses, subject to the following exceptions only: (1) the failure to reclassify the land in question to a non-open space use would constitute an unconstitutional "taking" of the landowner's property; (2) reclassification of the property to a non-open space use is necessary to comply with federal or state law regarding the provision of housing; (3) allowing non-open space uses is needed to authorize or permit public roadways, public utilities, interpretive centers, amphitheaters, museums, public art, public facilities (such as police, fire, and marine safety facilities), or active or passive recreational facilities; (4) reclassification of the property is needed to stabilize land supporting adjacent buildings; (5) the area to be reclassified is less than one acre in size and certain other requirements are met; and (6) reclassification to a non-open space use is necessary to retain consistency with the City's existing General Plan.

In January 2008, the City Council voted to submit to the voters the same General Plan Amendment that the Council approved in September 2007. If this measure is approved, the voters will have the assurance that a future City Council cannot amend or modify its September 2007 action without City voter approval. If this measure is approved, it can only be repealed or amended by the City's voters.

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