

**IMPARTIAL ANALYSIS BY CITY ATTORNEY
CITY OF SAN JUAN CAPISTRANO
MEASURE X**

Measure X is an initiative submitted to the voters by the San Juan Capistrano City Council. Approval of the initiative will adopt regulation that would require subsequent voter approval for any change in designation of land currently designated Open Space in the General Plan.

State law requires the City to adopt a General Plan. The General Plan is a comprehensive, long-term plan for the development of the City. The General Plan contains various required "elements" of which the Land Use Element is one. The General Plan Land Use Element contains a map that designates the general distribution and location of land uses for housing, industry, business, open space, public facilities, and other categories of public and private uses of land. State law and the City's Land Use Code provide the procedures required to amend the General Plan, including its land use designations.

Although the law grants the City Council legislative authority to adopt and revise the General Plan and the Land Use Code, the courts have decided that voters may adopt or amend General Plans and Land Use Code regulations.

If the voters approve Measure X, any decision of the City Council to change the General Plan land use designation of property designated Open Space to any other allowable land use will require voter approval before the change becomes effective. Measure X would require voter approval even if an amendment to "definitions" or other statement of permissible uses in current land use regulations would change the allowable uses of land designated as Open Space in the General Plan.

In addition, the new regulation adopted by Measure X specifies that the City must follow the normal procedures for processing applications for General Plan land use designation changes. Upon approval of a General Plan land use designation change from Open Space to any other allowable use, the City Council must call an election to submit to the voters the approval before the change can become effective. The election may take place at a City General Election date, other statewide general election date, or a special election. The City would bear the cost of placing the issue on a City General Election date, but the applicant for the change in land use designation must bear the cost of placing the ballot measure at a statewide or special election date.

If approved by the voters, the new regulation may not be changed except by voter approval.

A YES VOTE means that you want to approve the regulation discussed above so that changes in the General Plan land use designation of property designated Open Space cannot become effective until the voters approve it.

A NO VOTE means that you want to permit the City Council to continue to be able to change the General Plan land use designation of Open Space property.

s/ Omar Sandoval
City Attorney

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