

# VOTER'S PAMPHLET

## MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)  
Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

### CITY OF SANTA CRUZ

**K** Shall the Santa Cruz Municipal Code be amended by adding an ordinance that requires Santa Cruz police officers and other law enforcement officers in the City of Santa Cruz to make enforcement of state and federal laws pertaining to the distribution, sale, cultivation or use of marijuana by adults their lowest law enforcement priority?

#### FULL TEXT OF BALLOT MEASURE K CITY OF SANTA CRUZ

The people of the city of Santa Cruz ordain as follows:

Title 9 of the Santa Cruz Municipal Code is amended to add a new Chapter 9.84 entitled "Lowest Law Enforcement Priority Policy Ordinance" to read as follows:

"Chapter 9.84

Sections

9.84.010 Title

9.84.020 Purpose

9.84.030 Findings

9.84.040 Definitions

9.84.050 Lowest Law Enforcement Priority Policy

9.84.060 Community Oversight

9.84.070 Marijuana Policy Reform

9.84.080 Enforceability

9.84.090 Severability

9.84.010 Title

This chapter shall be known as the Lowest Law Enforcement Priority Policy Ordinance.

9.84.020 Purpose

The purpose of this chapter is:

(1) to make investigations, citations, arrests, property seizures, and prosecutions for adult marijuana offenses the lowest law enforcement priority for the city of Santa Cruz

(2) to establish a city policy supporting changes in state and federal laws that support a system of taxation and regulation for adult use of marijuana; and

(3) to transmit notification of the enactment of this chapter to state and federal elected officials who represent the city of Santa Cruz.

9.84.030 Findings

(1) The federal government's war on drugs has failed.

(2) Santa Cruz should determine its marijuana policies locally, not hand them over to the federal Drug Enforcement Administration.

(3) Otherwise law-abiding adults are being arrested and imprisoned for nonviolent marijuana offenses, which is clogging courts and jails in California.

(4) Each year California spends over \$150 million of taxpayer money enforcing marijuana laws.

(5) Law enforcement resources would be better spent fighting serious and violent crimes.

(6) Making adult marijuana offenses Santa Cruz's lowest law enforcement priority will reduce the city's spending on law enforcement and punishment.

(7) Decades of arresting millions of marijuana users have failed to control marijuana use or reduce its availability.

(8) Recreational marijuana users can still be productive citizens that work and pay taxes.

(9) It is the hope of the citizens of Santa Cruz that the federal and California state governments will change the laws to tax and regulate marijuana, thus eliminating the problems and costs caused by marijuana prohibition and raising revenues for vital public services.

9.84.040 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Santa Cruz law enforcement officer" means a member of the Santa Cruz Police Department or any other city agency or department that engages in law enforcement activity.

(3) "Lowest law enforcement priority" means a priority such that all law enforcement activities related to all offenses other than adult marijuana offenses shall be a higher priority than all law enforcement activities related to adult marijuana offenses, other than the exceptions designated in this chapter.

(4) "Marijuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.

9.84.050 Lowest Law Enforcement Priority Policy

(1) Santa Cruz law enforcement officers shall make law enforcement activity relating to adult marijuana offenses their lowest law enforcement priority. Law enforcement activities relating to adult marijuana offenses include, but are not limited to, investigation, citation, arrest, seizure of property, or providing assistance to the prosecution of adult marijuana offenses.

(2) This lowest law enforcement priority policy shall not apply to the following:

(a) distribution or sale of marijuana to minors;

(b) distribution, sale, cultivation, or use of marijuana on public property; or

(c) driving under the influence.

(3) This lowest law enforcement priority policy shall apply to cooperating with state or federal agents to arrest, cite, investigate, prosecute, or seize property from adults for marijuana offenses included in the lowest law enforcement priority policy.

(4) Santa Cruz law enforcement officers and other city employees shall not accept or renew formal deputization or commissioning by a federal law enforcement agency if such deputization or commissioning will include investigating, citing, arresting, or seizing property from adults for marijuana offenses included in the lowest law enforcement priority policy.

(5) The city of Santa Cruz shall not accept any federal funding that would be used to investigate, cite, arrest, prosecute, or seize property from adults for marijuana offenses.

9.84.060 Community Oversight

(1) A Community Oversight Committee shall be appointed to oversee the implementation of this chapter and shall serve voluntarily. The committee shall be formed and begin meeting within 100 days after the enactment of this chapter, even if some of its members have not been appointed. Each Santa Cruz City Councilmember shall appoint one city resident, and the Santa Cruz Police Department and the Santa Cruz County District Attorney's office shall each send a representative as a non-voting liaison to the meetings. Each committee member shall serve at the pleasure of the council member who appointed him or her, and city council members shall appoint replacement committee members on an as-needed basis.

(2) Responsibilities of the committee shall include:

(a) ensuring timely implementation of this chapter, with the cooperation of the Santa Cruz Police Department and other law enforcement agencies in providing needed data;

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(b) receiving any grievances from individuals who believe they were subjected to law enforcement activity contrary to the lowest law enforcement priority policy;

(c) designing a supplemental report form for Santa Cruz law enforcement officers to use to report all adult marijuana arrests, citations, and property seizures, and all instances of officers assisting in state or federal arrests, citations, and property seizures for any adult marijuana offenses in the city of Santa Cruz; the report shall be designed with the goal of allowing the committee to ascertain whether the lowest law enforcement priority policy was followed;

(d) requesting additional information from any Santa Cruz law enforcement officer who engaged in law enforcement activity relating to one or more marijuana offenses under circumstances which appear to violate the lowest law enforcement priority policy. An officer's decision not to provide additional information shall not be grounds for discipline; and

(e) submitting written reports semi-annually to the Santa Cruz City Council on the implementation of this ordinance, with the first report being issued nine months after the enactment of this chapter. These reports shall include but not necessarily be limited to: the number of all arrests, citations, property seizures, and prosecutions for marijuana offenses in the city of Santa Cruz; the breakdown of all marijuana arrests and citations by race, age, specific charge, and classification as infraction, misdemeanor, or felony; the percentage of all arrests in the city of Santa Cruz that are for adult marijuana offenses; any instances of law enforcement activity that the committee believes violated the lowest law enforcement priority policy; and the estimated time and money spent by the city on law enforcement and punishment for adult marijuana offenses.

(3) Santa Cruz law enforcement officers shall submit to the committee the supplemental report form as designed by the committee within seven calendar days after each adult marijuana arrest, citation, or property seizure, or instance of assisting in a state or federal arrest, citation, or property seizure for any adult marijuana offense in the city of Santa Cruz. Such reports shall be public records to the extent permitted by state law and made available to any citizen that requests them.

**9.84.070 Marijuana Policy Reform**

(1) This chapter makes it the policy of the city of Santa Cruz that the city of Santa Cruz supports policies to tax and regulate marijuana for adults.

(2) Beginning three months after the enactment of this chapter, the city clerk shall execute a mandatory and ministerial duty of sending letters on an annual basis to the city of Santa Cruz voters' U.S. representative or representatives, both of California's U.S. senators, the city of Santa Cruz voters' senators and Assembly members in the California State Legislature, the governor of California, and the president of the United States. This letter shall state, "The citizens of the city of Santa Cruz have passed an initiative to deprioritize marijuana offenses and request that the federal and California state governments take immediate steps to tax and regulate marijuana use, cultivation, and distribution and to authorize state and local communities to do the same." This duty shall be carried out until state and federal laws are changed accordingly.

**9.84.080 Enforceability**

All sections of this chapter are mandatory. If any provision of this chapter is not carried out properly, any person who is registered to vote in the city of Santa Cruz may seek a writ of mandate to ensure the law is fully implemented. Notwithstanding Chapter 4.04 of the Santa Cruz municipal code, a violation of this chapter is not a criminal offense; the exclusive remedy for failure to comply afforded by this chapter is writ of mandate.

**9.84.090 Severability**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

**IMPARTIAL ANALYSIS BY CITY ATTORNEY**  
**MEASURE K**

**ADULT MARIJUANA CRIMINAL OFFENSES – LOWEST  
LAW ENFORCEMENT PRIORITY INITIATIVE**

This initiative, if adopted by City voters, would enact an ordinance that requires the Santa Cruz Police Department to make adult (age 18 or older) criminal marijuana investigations, citations, arrests, property seizures and prosecutions their lowest law enforcement priority and further stipulates that law enforcement activity related to all other criminal offenses shall receive a higher priority.

Federal law lists marijuana as a statutorily prohibited controlled substance. Under California state law, with the exception of certain activities pertaining to medicinal use, it is similarly a crime to possess, cultivate, sell, furnish or transport marijuana. The California Penal Code authorizes police officers to enforce all state and local laws. To this end Santa Cruz Police Department general orders and ethical canons require police officers to take prompt and proper police action relative to violations of all laws observed by them or coming to their attention and to uphold all laws enacted or established pursuant to legally constituted authority.

The ordinance would not apply to crimes entailing: the distribution or sale of marijuana to minors; the distribution, sale, cultivation or use of marijuana on public property; or driving under the influence of marijuana. The ordinance's lowest law enforcement priority mandate would apply to cooperating with state or federal agents engaged in the enforcement of adult criminal marijuana offenses and prohibit the City from accepting federal funding to be used for marijuana law enforcement activity.

The ordinance would require the formation of a voluntary Community Oversight Committee comprised of City residents and would require the Santa Cruz Police Department and the Santa Cruz County District Attorney to each send a non-voting liaison representative to Committee meetings. The Committee would: oversee the ordinance's implementation; receive grievances from individuals who believe they were subjected to law enforcement contrary to the ordinance's lowest law enforcement priority policy; and gather, and report on, marijuana law enforcement activity in the City. The Committee would also be authorized to request marijuana law enforcement information from individual City police officers who would be required to comply with any such request within seven calendar days.

The proposed ordinance makes it a City policy to support the taxation and regulation of marijuana and requires the City Clerk to notify all City representatives in federal and state government of this policy and that adult marijuana crimes are the City's lowest law enforcement priority.

The proposed ordinance specifies that all of its provisions are mandatory. The proposed ordinance further specifies that violation shall not constitute a criminal offense and that the exclusive means of enforcement is a civil writ of mandate court proceeding.

The City Attorney has questioned the legality of several provisions of the ordinance. Two such concerns are noted here. First, the ordinance would limit, or effectively prohibit, police officers from performing functions that state law authorizes them to perform. Second, the ordinance would subject the City and individual police officers to civil litigation for enforcing state marijuana laws in alleged violation of the ordinance.

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### ARGUMENT IN FAVOR OF MEASURE K

**The government's war on drugs has been costly, ineffective, and unjust.** Arresting otherwise law-abiding citizens for marijuana use wastes police resources and clogs our criminal justice system.

Measure K allows our police to focus on the growing problem of serious and violent crime in Santa Cruz by making marijuana use by adults the lowest police priority. It does not apply to minors, public use, or driving under the influence.

Marijuana is illegal under state and federal law, and this initiative cannot change that. But the initiative does require the city to send a message each year to our representatives in Sacramento and Washington urging them to pass more sensible laws taxing and regulating marijuana. In the meantime Measure K will reduce local resources spent criminalizing marijuana users. It's a practical step in the right direction.

**The overwhelming majority of people who use marijuana are responsible, productive citizens who work and pay taxes.** Yet over 700,000 Americans are arrested each year on marijuana charges. California spends approximately \$150,000,000 each year arresting, prosecuting and imprisoning non-violent marijuana offenders. Meanwhile, our overcrowded prisons are at nearly twice capacity and taxpayers are now being asked for billions more to build new ones. **It's crazy to continue to arrest nonviolent marijuana users.**

Seattle passed a similar measure in 2003 and reduced marijuana arrests 75% without increasing use.

Just because the Bush administration has launched a "war" on marijuana doesn't mean we should enlist. Santa Cruz has a history of humane, progressive leadership on this issue, as the first city to allow medical use of marijuana. Measure K continues this tradition, adopting a more sensible marijuana policy and sending a message to the federal government. **Please join us in voting YES on K.**

For more information, please visit <http://www.sensiblesantacruz.org>.

s/ John Vasconcellos  
California State Senator (Retired)

s/ Craig Reinerman  
Professor of Sociology

s/ Celia Scott  
Former Mayor, City of Santa Cruz

s/ Arnold Leff M.D.  
AIDS Hospice Specialist

s/ Judy Phillips  
Businessperson, Realtor

### REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE K

**Measure K is a badly conceived ordinance, funded almost entirely by wealthy outside interests who want to use our community for their own social experiment.**

Public records show that this so-called grass roots initiative was actually launched by \$32,000 of outside money, mostly from Cleveland billionaire Peter Lewis. The people who put this on the ballot will continue to live comfortably in their homes far away, while we must contend with the actual consequences here in Santa Cruz.

- **Don't give a green light** to growing or distributing unlimited amounts of marijuana on private property, when substance abuse and drug-related crimes are already a serious issue!
- **Don't place our police officers in legal jeopardy** just for doing their job!
- **Don't tie up scarce City funds** defending a poorly drafted ordinance that conflicts with state law!
- **Don't turn our backs on neighborhoods and community groups** that deal with these issues on a daily basis!

Many people agree that current drug laws need to be reformed, but **Measure K is not the answer. It only creates more problems:**

- **Restricts local law enforcement** in community policing efforts.
- **Adds costs to the City** for legal defense and staffing a mandatory advisory committee.
- **Undermines positive efforts** of schools, neighborhood groups and human service agencies.

**Don't let Santa Cruz become the personal experiment of rich, out-of-town interests.** Don't create new problems and unintended consequences for our community!

Join parents, teachers, law enforcement, and community groups: **VOTE NO on K.**

s/ Bob Gallagher  
High School Teacher

s/ JoAnne Myall  
Probation officer

s/ JD Sotelo  
Member, Neighbors of Lower Ocean

s/ Steve Belcher  
Retired Santa Cruz Police Chief

s/ Shebreh Kalantari  
United Way of Santa Cruz County

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### ARGUMENT AGAINST MEASURE K

Measure K spells bad news for our community, including youth, law enforcement, neighborhoods and City finances. Here's why we OPPOSE Measure K:

- **Measure K does not define the "acceptable" amount of marijuana for sale or distribution.** It does not exclude anyone (even gangs) from growing large amounts on private property, or distributing it on private property to other adults and using the proceeds for illegal activities. Even an 18 year-old student could distribute or cultivate marijuana on private property. Police would be unable to respond to enforcement requests.
- **Measure K attempts to reduce the number of police officers in Santa Cruz.** One of its stated goals is to "reduce the City's spending on law enforcement." City police already handle 70,000 calls for service annually, and gang violence is increasing. Does the community really want to reduce the number of police officers?
- **Measure K directs police officers to violate their oath, risking legal action.** Police officers swear to uphold the laws of California and the United States. In carrying out Measure K, officers could be forced to violate this sworn oath. Lawsuits could actually be brought against officers for cooperating with state or federal agencies in enforcing current laws.
- **Measure K does not specify costs to the City.** It requires a community oversight committee ... but what would be the costs to staff this committee, or defend officers or the ordinance in court? Santa Cruz can't afford open-ended or avoidable costs in these tight times.
- **Voting against this ordinance has no impact on medical marijuana.** Measure K is unrelated to issues of medical marijuana.

Drug use among local youth is already higher than state or national averages. **Even for those who favor changes in current drug laws, Measure K is the wrong solution.**

Vote NO on Measure K.

s/ Mary Lou Goeke  
Director, United Way of Santa Cruz County

s/ Michael Bethke  
Neighborhood Activist

Santa Cruz Police Management Association  
s/ Patricia Sapone, Vice President

s/ Jan Tice  
Director, Janus of Santa Cruz

s/ Ed Porter  
High school teacher, City Councilmember

### REBUTTAL TO ARGUMENT AGAINST MEASURE K

The argument against **Measure K** resorts to fear tactics and misrepresentation, as anyone who reads the measure can see. **Measure K will save police resources, conserve taxpayer dollars, and make Santa Cruz safer.**

**FACT: Measure K simply makes private, adult marijuana offenses the lowest police priority,** thus freeing up police resources to focus on the rising occurrence of serious crime in our city.

**FACT: Measure K** does not reduce the number of police officers, cut the police budget, or prevent police from enforcing any law when necessary to protect public safety.

**FACT: Measure K will save money.** Currently Santa Cruz Police make over 250 marijuana arrests a year, costing taxpayers hundreds of thousands of dollars. In contrast, implementation costs for Measure K would be minimal since the Oversight Committee is staffed by volunteers whose expenses would center on keeping records and filing reports. The city attorney's report to the city council states that "this initiative does not implicate City financial commitments".

**FACT:** The exclusive remedy for failure by authorities to comply with Measure K is a writ of mandate (court order), not a criminal lawsuit.

**FACT: Setting priorities is legally within the voters' rights.** Our police work for us – the citizens. **Measure K** makes it clear that serious crime, not marijuana, is our priority.

The federal government's war on drugs has failed. It's time for a sensible approach to marijuana. That's why doctors, educators, business people, and regular citizens agree: **Yes on Measure K.**

For more information, please visit [www.sensiblesantacruz.org](http://www.sensiblesantacruz.org)

Law Enforcement Against Prohibition  
s/ Jack A. Cole, Executive Director

s/ Drew Maris, M.D.  
Board Member, Diversity Center of Santa Cruz County

Center on Juvenile and Criminal Justice  
s/ Dan Macallair, Executive Director

s/ John Sandidge  
Broadcaster

Santa Cruz Citizens for Sensible Marijuana Policy  
s/ Andrea Tischler, Chairperson  
business owner, Compassion Flower Inn