

**INITIATIVE MEASURE TITLE AND SUMMARY
PREPARED BY CITY ATTORNEY
PURSUANT TO ELECTIONS CODE SECTION 9203**

Title:

An Ordinance Rescinding the City of Laguna Beach Ban on Cannabis Businesses and Authorizing the Establishment and Regulation of One Cannabis Storefront Retail Business and One Cannabis Delivery-Only Business in a Portion of the Laguna Canyon Area

Summary:

The Laguna Beach Municipal Code prohibits cannabis dispensaries, including any facility or location where cannabis products are to be sold or delivered, within the city limits. The proposed citizen-initiated measure – if approved by a majority of the Laguna Beach electorate voting on the matter and if the proposed modification of the Laguna Beach Zoning Ordinance and Laguna Canyon Annexation Area Specific Plan is certified by the California Coastal Commission – would amend the Municipal Code to rescind the current prohibition and instead authorize the establishment and regulation of one cannabis storefront retail business and one cannabis delivery-only business in the M-1A or M-1B light industrial zone in the Laguna Canyon area.

The proposed measure provides a process requiring the City to issue one cannabis storefront retailer license and one cannabis delivery-only business license. An applicant may request both license types. Applications for a license must, among other requirements, identify the premises proposed to be occupied and demonstrate the right to use such premises. The premises shall be no less than 1,000 feet from any public or private school (K-12). Applications must also identify each Owner (as defined) of the proposed business and furnish certain personal information. Applications must include as exhibits various plans described in the proposed measure.

The proposed measure creates a selection panel consisting of the City Manager, a City resident chosen by the City Council, and an owner of a business in the city chosen by the City Council who has no direct or indirect interest in any applicant or cannabis business. The selection panel shall review applications and score them on a 100-point scale pursuant to specified criteria. Each available license shall be issued to the top-scoring applicant and cannot be revoked except under limited circumstances.

Selected licensees shall comply with prescribed standards, including without limitation: (1) hours of operation shall be between 7 a.m. and 9 p.m., seven days a week; (2) onsite security shall be provided; (3) persons under the age of 21 (or 18 with valid medical card) cannot enter the premises; (4) the licensed storefront retailer may also engage in off-site deliveries; (5) no public access or sales shall be allowed at the delivery-only business; (6) all cannabis products shall meet or exceed applicable State regulations; (7) air purification equipment shall be installed such that no noxious odors or odors of cannabis are detectable outside of the premises; (8) certain signage and lighting shall be installed; (9) no cannabis may be consumed in or on the premises; (10) no alcohol, tobacco or vaping products may be sold from or consumed on the premises; and (11) at least one full-time manager shall be responsible for community relations. Each licensee shall enter into a “public

December 2, 2021

RECEIVED

DELIVERED VIA PERSONAL DELIVERY

DEC 06 2021

City Clerk's Office
City of Laguna Beach, CA

Ann Marie McKay, City Clerk
City of Laguna Beach
505 Forest Avenue
Laguna Beach, California 92651

Re: Request for a Ballot Title and Summary

Dear Ms. McKay:

Enclosed with this letter is a copy of the proposed Safe Regulation of Cannabis Initiative prepared by myself and counsel, a notice of intent to circulate a petition, and a statement of the reasons of the proposed action as contemplated in the petition. I respectfully request that a ballot title and summary be prepared by the City Attorney pursuant to California Elections Code Section 9203.

We appreciate your assistance with this request. Please let us know if you need anything else from us at this time.

Sincerely,



Kaveh Niknia
Laguna Local, LLC
P.O. Box 1596
Laguna Beach, CA 92652

Enclosure.

RECEIVED

DEC 13 2021

City Clerk's Office
City of Laguna Beach, CA

NOTICE OF INTENT TO CIRCULATE A PETITION

Notice is hereby given by the person whose name appears hereon of his intention to circulate a petition within the City of Laguna Beach for the purpose of putting before the voters a proposed amendment to the City's Municipal Code and related rules, maps, codes, and regulations to allow for the permitting of one cannabis storefront retailer and one cannabis delivery-only business within a portion of the Laguna Canyon area. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

WHAT IT DOES: The Safe Regulation of Cannabis Initiative provides for the permitting of one cannabis storefront retailer and one cannabis delivery-only business within a portion of the Laguna Canyon area. It does so by amending the Laguna Beach Municipal Code and related rules, maps, codes, specific plans, and regulations. This amendment strictly limits the location and number of cannabis storefront retailer and cannabis delivery-only businesses, imposes strict public safety and youth-protection policies, prioritizes local ownership, requires each business sign a public benefit agreement to support the City of Laguna Beach and social equity, and prohibits other commercial cannabis activities for at least one year to protect the City's residents, visitors, and businesses.

WHY WE NEED IT: Both in 1996 and 2016, the City of Laguna Beach's voters supported the legalization of medical and adult use of cannabis by one of the largest margins in the state. However, the City's Municipal Code does not align with the voters' desires. At present, there are no options for residents or visitors to obtain personal, expert guidance and legal cannabis from a cannabis business anywhere in the City. Laguna Beach residents deserve a safe, local option that benefits the community.

WHO'S SPONSORING IT: This initiative is sponsored by Kaveh Niknia, a local small business owner, doctor, and resident of Laguna Beach.



Kaveh Niknia
Laguna Local, LLC

Business Address
P.O. Box 1596
Laguna Beach, CA 92652

Residence
2160 S. Coast Hwy
Laguna Beach, CA 92651
(949) 838-7868

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The people of the City of Laguna Beach do ordain as follows:

Section 1. Title.

The title of this initiative is “Safe Regulation of Cannabis” (“Initiative”).

Section 2. Findings and Purpose.

A. Findings. The People of the City of Laguna Beach find and declare the following:

1. In 1996 the voters of the State of California passed Proposition 215, the Compassionate Use Act, that allows the use of cannabis for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined; and Laguna Beach voters supported Proposition 215 by 71% to 29%, the highest margin of support of any city in Orange County, twenty-two points higher than the county as a whole and higher than every other county in the state except four (Alameda, Marin, Santa Cruz, and San Francisco).
2. In 2003 the State of California enacted Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), which established requirements for the issuance of voluntary identification cards; provided a defense to criminal charges related to the cultivation, possession, sale, or storage of medical cannabis; prohibited the distribution of cannabis for profit; exempted from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate cannabis for medical purposes; required the Attorney General to issue guidelines for the security and non-diversion of medical cannabis; and allowed cities to adopt and enforce laws consistent with the MMPA.
3. In 2015 the State of California enacted Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, comprising the Medical Cannabis Regulation and Safety Act and establishing a comprehensive regulatory framework for the production, transportation, and sale of medical cannabis.
4. In 2016 the voters of the State of California passed Proposition 64, the Adult Use of Marijuana Act, allowing for the adult use of cannabis and establishing regulatory and tax requirements for licensed commercial adult-use cannabis activity including retail sale; and Laguna Beach voters likewise supported Proposition 64 by 62% to 38%, again the highest margin of support of any city in Orange County, ten points higher than the county as a whole and higher than all but eight counties in the state, exceeding the support shown in traditional cannabis-friendly areas such as Santa Barbara, Humboldt, and Mendocino Counties.
5. This Initiative allows potential cannabis businesses to only be located within a portion of the Laguna Canyon area. The Laguna Beach General Plan Land Use Element states that the Laguna Canyon area has, “approximately 65 acres of land [that] is zoned for light industrial and limited commercial activities,” with a prior version of the Element stating that the area, “supports a broad mix of land uses, including industrial uses intermixed with older residential uses and retail commercial businesses.” The Laguna Canyon Annex Area Specific Plan additionally states that the canyon area houses land “uses which might be termed a nuisance in more traditional residential areas...[helping] to create a unique, cohesive community.”

6. All powers not delegated by the United States Constitution to the United States nor prohibited by it to the states are reserved to the states or the people, pursuant to the Tenth Amendment of the United States Constitution.
 7. In the State of California, zoning is a local matter exercised by cities pursuant to the police powers set forth in Article XI, Section 7 of the California Constitution.
- B. Purpose. The purpose of this Initiative is to amend the City’s rules, maps, codes, and regulations to protect the safety and welfare of its residents by strictly regulating and providing for the zoning of only one (1) cannabis storefront retailer and one (1) cannabis delivery-only business. To further protect residents, this Initiative prohibits other commercial cannabis activity, such as cultivation, product manufacturing, and/or distribution, for at least one (1) year. This Initiative follows state law and makes minor changes to current City law regarding non-commercial, personal cultivation of cannabis.

Section 3. Chapter 7.75 of the City’s Municipal Code is hereby deleted in its entirety.

Section 4. Chapter 5.15 is hereby added to Title 5 (Business—Taxation, Licensing) of the City’s Municipal Code to read as follows:

5.15.010—Purpose.

In enacting this Chapter, it is the intent of the City of Laguna Beach to protect the safety and welfare of the general public, promote responsible economic activity, and generate significant community benefits by regulating and monitoring medical and adult-use cannabis facilities, commercial cannabis facilities, the delivery of all cannabis, and the commercial cultivation of cannabis within the City’s corporate limits in a manner compliant with state law.

5.15.020—Definitions.

The following words and phrases, whenever used in this Chapter, are defined as follows:

- A. “Cannabis” is as defined by California Business and Professions Code, Division 10, Section 26001, or any successor statute or law.
- B. “Cannabis Business(es)” means any person lawfully engaged, or seeking to engage, in a Commercial Cannabis Activity as set forth by the California Business and Professions Code, Division 10, and state rules and regulations implementing those laws, or any successor statutes or laws.
- C. “Cannabis Business Applicant” or “Applicant” is a person, organization, or entity who, per the process outlined in this Chapter, seeks a business license for a Storefront Cannabis Retail Business or Delivery-Only Cannabis Business from the City of Laguna Beach.
- D. “Cannabis Business Type” means the classification of Cannabis Business under California Business and Professions Code, Division 10, or any successor statute or law.
- E. “Cannabis Products” is as defined by Section 11018.1 of the California Health and Safety Code, or any successor statute or law.

- F. "Chapter" is chapter 5.15 of the Laguna Beach Municipal Code, or any successor chapter.
- G. "City" is the City of Laguna Beach, California.
- H. "City Council" or "Council" is the City Council of Laguna Beach.
- I. "City Manager" is the City Manager of Laguna Beach or his/her designee.
- J. "Delivery" is as defined by Section 26001 of the California Business and Professions Code, or any successor statute or law.
- K. "Delivery-Only Business" or "Delivery-Only Cannabis Business" is a person, organization, or entity, whose premises is closed to the public, engaging exclusively in Delivery of Cannabis and Cannabis Products for medical and adult use, in compliance with the regulations for a state non-storefront retail license, type 9, as specified in the California Department of Cannabis Control regulation Section 15414, or any successor statute, regulation, or law.
- L. "Licensee" is the persons or organizations who have been selected by the City of Laguna Beach per the process outlined in this Chapter to obtain a business license for a Storefront Cannabis Retail Business or Delivery-Only Cannabis Business.
- M. "Owner" is a person with an aggregate ownership interest, direct or indirect, of twenty percent (20%) or more in a Cannabis Business, whether a partner, shareholder, member, or the like, including any security, lien, or encumbrance in an ownership interest that, upon default, could become an ownership interest of twenty percent (20%) or more in a Cannabis Business; or a person with a similar aggregate ownership interest of more than one percent (1%) in a Cannabis Business who will be participating in the direction, control, or management of the Cannabis Business.
- N. "Premises" is the legal parcel(s) of land and the improvements on it, including building(s), store(s), shop(s), or other designated structure of a Storefront Retailer or Delivery-Only Business.
- O. "Primary Caregiver" is as defined in Section 11362.7 of the California Health and Safety Code, or any successor statute or law.
- P. "Qualified Patient" is as defined in Section 11362.7 of the California Health and Safety Code, or any successor statute or law.
- Q. "Responsible Person" is the person who is responsible for the operation, management, direction, or policy of a Cannabis Business.
- R. "Storefront Retailer" or "Storefront Cannabis Retail Business" is an organization or entity, whose premises is open to age-verified adults, engaging in storefront retail sale and delivery of Cannabis or Cannabis Products for medical and adult use to patients and customers, in compliance with the regulations for a state Retail License Type 10 (Retail), as specified in the California Business and Professions Code section 26050, subdivision (a)(18), or any successor statute or law.
- S. "School" means any public or private accredited facility providing instruction in kindergarten

or any grades one (1) through twelve (12) that is in existence as of November 1, 2021, but does not include any private school in which education is primarily conducted in private homes.

5.15.030—Storefront Retailer and Delivery-Only Business Location.

Only one (1) Storefront Cannabis Retail Business license shall be granted. Only one (1) Delivery-Only Cannabis Business license shall be granted.

- A. Licensees shall be allowed only in the Light Industrial Zone (M-1A) and Light Industrial Zone (M-1B) land use zones abutting Laguna Canyon Road/CA-133, subject to the following restrictions and regulations contained in this Chapter.
- B. Notwithstanding Subsection (A) above, Licensee's Premises shall be no less than one thousand (1,000) feet from any School, as measured by a straight line from the closest property lines of each. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways, flood control channels, or railroad tracks without pedestrian or automobile crossings that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.

5.15.040—Storefront Retailer and Delivery-Only Business Regulations.

- A. Licensee's hours of operation shall be no earlier than 7:00 a.m. and no later than 9:00 p.m., seven (7) days per week. City Council may by resolution limit Storefront Retailer's and/or Delivery-Only Business' hours to 8:00 a.m. to 8:00 p.m. in response to community feedback after Licensee begins operations. Such hour limitation may similarly be reversed by City Council.
- B. Security shall be provided at the Premises, which shall include operable cameras, alarms, and at least one (1) security guard. The security guard(s) shall be licensed by the State of California and be present on the Premises whenever the Licensee is open for business.
- C. Persons under the age of twenty-one (21) may not enter Storefront Retailer's Premises at any time, except medical patients at least eighteen (18) years of age who possess a valid physician's recommendation in accordance with state law. Storefront Retailer must maintain an electronic age verification device to confirm the age of any individual attempting to enter Premises and/or purchase Cannabis or Cannabis Products. Security shall ensure no minors are present or loitering on the exterior grounds of the Premises during business hours.
- D. No public access or sales shall be allowed on Delivery-Only Business' Premises. Only directors, officers, managers, employees, agents, suppliers, and contractors of the Delivery-Only Business shall be present on the Premises. Representatives of cultivators, distributors, testing labs, and other state-licensed Cannabis Businesses may be allowed on the Premises with permission and supervision by the Delivery-Only Business to conduct business as required and appropriate. Prior to providing Cannabis and/or Cannabis Products to a delivery customer, Delivery-Only Business employee(s) must confirm the identity and age of the delivery customer via government-issued identification.
- E. All Cannabis and Cannabis Products shall meet or exceed state safety, testing, and packaging standards, and be tracked electronically as part of the state's track-and-trace system. Testing and safety records must be made available to City inspectors and staff upon request.

- F. Licensee shall install and maintain air purification equipment such that no noxious odors or odors of Cannabis are detectable outside of the Premises at any time.
- G. No cannabis may be consumed in or upon the Premises, unless specifically authorized and regulated by the City Council. Licensee shall post signs prohibiting loitering and cannabis consumption outside the Premises.
- H. Lighting shall be provided to illuminate the interior of the Premises, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties and shall comply with any City regulations.
- I. In addition to retail sales, Storefront Retailer may also engage in off-site Delivery from its location to customers. Delivery-Only Business may only engage in off-site Delivery from its location to customers. Delivery must be made by an authorized Licensee employee(s) in an authorized vehicle owned or leased by the Licensee that does not have any visible indications that it is carrying Cannabis. Deliveries may only be made during the Licensee's hours of operation and shall comply with all state rules and regulations.
- J. Any exterior signs on the Premises shall comply with City Code; not contain any words or images that may be appealing to youth; nor contain any references to "cannabis," "marijuana," their synonyms, or images of same.
- K. No alcohol, tobacco, or tobacco vape products shall be sold from or consumed on the Premises.
- L. Licensee shall have at least one (1) full-time manager responsible for community relations, whose phone number and email contact is posted on the Premises and made available to City staff, the Police Department, and community groups.
- M. Licensee shall adhere to all state rules and regulations for its Cannabis Business Type. Any other rules, regulations, public benefit agreement terms, and local permitting requirements imposed on the Licensee by the City shall conform to the state licensing requirements for the Licensee's Cannabis Business Type, as set forth by the California Business and Professions Code, Division 10, and state rules and regulations implementing those laws.

5.15.050—Prohibitions.

The City shall not license, or permit to operate, any Cannabis Storefront Retailer or Delivery-Only Retailer beyond those Licensees provided in this Chapter. Any other Cannabis commercial activity, including, but not limited to Cultivation, Manufacturing, Microbusiness, and Distribution, shall be prohibited in all zones in the City for at least one (1) year after the effective date of this Chapter.

5.15.060—No Change to State Personal Grow Law.

The restrictions and rights under state law regarding non-commercial Cannabis growth and use by Qualified Patients, Primary Caregivers, or other adults shall apply in the City. A person may plant, cultivate, harvest, dry, or process Cannabis plants to the extent allowed under California Health and Safety Code Sections 11362.1(a)(3) and 11362.77, or any successor statutes or laws, subject to all restrictions under California State law, inside a single private residence or accessory structure to the residence that is fully enclosed and secure located on the grounds of that residence. No Cannabis odor shall be detectable from adjacent properties or

public spaces.

5.15.070—Licensee Application Process.

- A. Within ten (10) days after the effective date of this Chapter, the City Manager shall publish online, and email to any person who has expressed interest in operating a Cannabis Business in the City and provided their email address, a request for applications from potential Storefront Retailer and Delivery-Only Business Applicants. This request shall ask Applicants to provide:
1. Written confirmation they are interested in applying for a Storefront Retailer or Delivery-Only Business license in the City. An entity, Applicant, or Owner may apply for both license types but shall do so via separate applications.
 2. Identification of the Premises the Applicant proposes to occupy as well as evidence of its right to use the Premises via: title demonstrating its ownership of the Premises, signed lease agreement, or letter of intent to lease; and, if the Applicant is not the owner of the Premises, a signed statement from the property owner acknowledging and approving of the Applicant using the Premises for the intended Cannabis Business.
 3. List of all Owners of the Applicant; their personal information including address, government identification, etc.; the percentage of the Cannabis Business they own, or will own; and a résumé or professional biography of each individual.
 4. The four (4) anonymized Exhibits required per Section D(2) below.
 5. Any additional material the City Manager reasonably deems necessary to complete the application scoring process.
- B. Within thirty (30) days after the effective date of this Chapter, the City Council shall select one (1) City resident and one (1) owner of a business in the City, who attest to not have any direct or indirect financial interest in any Applicant or Cannabis Business in California, to serve on a Selection Panel with the City Manager. The Selection Panel shall review the written applications and may interview the Applicants and visit the proposed locations for both license types.
- C. Completed applications shall be due to the City Manager forty-five (45) days after the City Manager publishes the request for applications. Late applications and content will not be accepted or reviewed. However, the City Manager may request additional clarifying documents or content from Applicants as needed to complete the scoring process, provided all other deadlines in this Chapter are met.
- D. Applications shall be scored on a scale of zero (0) to one hundred (100) points.
1. In enacting this Chapter, the voters of Laguna Beach wish to identify Cannabis Licensees that will meet these Community Objectives:
 - i. Operate a safe, successful Cannabis Business;
 - ii. Provide financial support to the City and/or nonprofit organizations serving the City;
 - iii. Have owners and managers who are part of the community;
 - iv. Be a respectful, responsive neighbor;
 - v. Support social equity and prioritize Laguna Beach residents for hiring, training, and promotion;
 - vi. Emphasize customer and patient education and service;
 - vii. Create an attractive, welcoming store, as applicable; and
 - viii. Maximize environmental benefits.

2. Applicants should submit the following Exhibits, each no longer than four (4) pages single-spaced, in at least size eleven (11) font. Each Exhibit will be worth a maximum of ten (10) points such that the maximum number of points possible for the four (4) Exhibits is forty (40) points.
 - i. Exhibit A: Safety, Security, and Cannabis Tracking Plans
 - ii. Exhibit B: Applicant's Community Connections and Community Benefits Plan
 - iii. Exhibit C: Parking Management Plan
 - iv. Exhibit D: Environmental Plan
3. Applicants shall ensure its Exhibits are anonymized, with respect to personal, company, and brand names, or any other identifiers, such that Selection Panel members cannot identify the Applicant by reading the Exhibit. The City Manager shall provide directions to Applicants regarding how to label Exhibit documents so they can be properly correlated to their applications after review. Failure to properly anonymize an Exhibit, in the determination of the City Manager, may be grounds for a fifty percent (50%) score reduction on that Exhibit.
4. The City Manager may provide clarifications or additional details regarding the type of content Applicants should provide in Exhibits and the criteria Selection Panel members should use to evaluate the Exhibits, provided the information is fairly provided to all relevant parties and is in keeping with the intent of this Chapter, particularly the Community Objectives in part (1) above.
5. Each Selection Panel member shall read each of the four (4) Exhibits from each application and score it on a scale of zero (0) to fifteen (15) points; partial scores and non-whole numbers are allowed. After scoring the Exhibits, the Selection Panel shall calculate the average score awarded to each Exhibit by the Panel members, which will be the final score for that Exhibit.
6. The City Manager shall make the following factual determinations about each application and award either the corresponding full point value or no points for the following criteria; partial scores are not allowed. If, as of November 30, 2021, the Applicant had, and, as applicable, continues to have:
 - i. At least one (1) Owner who resides in the City, award ten (10) points;
 - ii. At least one (1) Owner who has experience managing, operating, or owning a business in the City, award ten (10) points;
 - iii. At least one (1) Owner who has experience managing, operating, or owning a "social equity" Cannabis Business, as "social equity" is defined by the jurisdiction in which the Business operates; and Applicant commits to prioritize social equity in its hiring and leadership, award ten (10) points;
 - iv. At least one (1) Owner who is a licensed medical doctor with experience practicing medicine in Orange County, award ten (10) points;
 - v. Committed in writing to the City Manager to provide at least two hundred and fifty thousand dollars (\$250,000) in total community benefits to the City and/or nonprofit(s) of the City's choosing during its first five (5) years of operation; award twenty (20) points. If an Applicant made this commitment and receives the points, the commitment will become binding in any public agreement the City signs with the Applicant.

- E. Within forty-five (45) days after the deadline for applications to be submitted, the Selection Panel shall complete its scoring, and the City Manager shall publish online and email to Applicants the Panel's ranking of the Storefront Retailer and Delivery-Only Business Applicants based on the total scores awarded per Section (D) above.
- F. Within seven (7) days after the City Manager publishes the ranking of Applicants, an Applicant may appeal the City Manager's determination that it does not meet one (1) or more of the factual criteria in Section D(6) above to the City Council. The appeal shall be submitted in writing to the City Manager and City Clerk. The City Council shall hear and decide upon the appeal within thirty (30) days after the appeal is submitted. The Selection Panel's scoring of Exhibits shall be final and no appeals are allowed.
- G. Upon the close of the appeal window, or conclusion of any appeal regarding the City Manager's determination regarding factual criteria in Section D(6) above, the top-scoring Storefront Retailer Applicant and top-scoring Delivery-Only Business Applicant shall proceed to licensure immediately.
- H. If more than one (1) Applicants tie for the top score of a given license type, the Applicant with the higher score in the factual criteria in Section D(6) shall proceed to licensure. If the Applicants are also tied in the factual criteria in Section D(6), the City Council, or City Manager as applicable, shall, within thirty (30) days, select the winning Applicant. The City Council shall decide by majority vote, based on which Applicant the Council believes will best meet the Community Objectives in this Chapter. If a majority of City Council members present cannot agree on a winning Applicant, the City Manager shall select the winning Applicant, based on which Applicant the City Manager believes will best meet the Community Objectives in this Chapter. The decision of the City Council or City Manager under this subsection shall be final.
- I. If the winning Applicant of a given license type declines in writing to proceed toward opening its business or, in the view of the City Manager, does not make material progress toward opening for business within twelve (12) months of being selected, such as by applying for permits, starting construction, *etc.*, the Applicant's license shall be revoked and the next highest ranked Applicant of that license type shall proceed to licensure.
- J. If no eligible applications are submitted for a given license type, no license will be awarded. The application process for that license will remain open.

5.15.080—Cannabis Business Licensure Process.

Provided the Premises of a Storefront Cannabis Retail Business or Delivery-Only Cannabis Business Licensee meets the standards and conditions of this Chapter, the City Manager shall issue the business a license and enter into a public benefit agreement with the Licensee to operate its Cannabis Business within the City. In adopting this process, the voters of Laguna Beach seek to minimize the time required from selection of the Storefront Retailer applicant and the Delivery-Only Business Applicant to the opening of each business; thus, the City Manager shall issue the license and enter into the public benefit agreement with the selected Licensee(s) within ten (10) days after the selection.

- A. The public benefit agreement shall provide the following terms:
 - 1. The Licensee shall annually pay the City seven and one-half percent (7.5%) of its net

profits or fifty thousand dollars (\$50,000) per full calendar year in which the Licensee is operational, whichever number is greater (“Annual Payment”). If the Licensee is operational for less than any full calendar year, it shall pay the City seven and one-half percent (7.5%) of its net profits or the pro rata share of fifty thousand dollars (\$50,000) for that partial year, whichever number is greater.

2. The Annual Payment shall be made no later than sixty (60) days after the Licensee files its annual taxes for the year in question, provided a Licensee may make early installment payments prior to the deadline for business/cash-flow reasons.
3. The City Manager may request the tax filing of a Licensee to verify the profits and amount due under the public benefit agreement. Any tax information provided by a Licensee to the City Manager shall be deemed trade secret and confidential and shall not be shared with third-parties, or disclosed under the California Public Records Act.
4. If the voters of Laguna Beach approve a Cannabis tax for the Storefront Cannabis Retail Business and/or Delivery-Only Cannabis Business then that tax shall govern and the Annual Payment shall automatically cease and be of no effect.
5. No other terms may be added to the public benefit agreement without the mutual written consent of the Licensee and the City Manager.

5.15.090—Cannabis Business Regulations.

Any Cannabis Business licensed or seeking to be licensed via this Chapter or any time hereafter shall register with the City Manager and shall comply with the following regulations:

- A. Prior to a Cannabis Business opening for business, or any individual becoming a new Responsible Person or Owner of an existing Cannabis Business, the Responsible Person and Owner(s) shall be subject to a background check. Any person who has been convicted of a serious or violent felony, as defined by state cannabis regulations, may not operate, manage, control, or own a Cannabis Business, and shall be precluded and/or removed from involvement with the Cannabis Business.
- B. An applicant for a license for a Cannabis Business must provide written proof that the building owner or management acknowledges and approves of the Cannabis Business operating on the Premises.
- C. No Cannabis Business shall be allowed to operate if an Owner or responsible person has been cited or fined by any California jurisdiction for operating a non-permitted cannabis business after October of 2015, when the California Medical Cannabis Regulation and Safety Act passed, which first defined operating rules for Cannabis Businesses in the state.
- D. The City may charge a reasonable registration fee for a Cannabis Business and a reasonable annual fee for a Cannabis Business, to recover the actual costs the City incurs in regulating the business.
- E. A license for a Cannabis Business may be revoked or suspended due to (1) material noncompliance with the business’ public benefit agreement, if such noncompliance is not cured within thirty (30) days after written notice from the City; or (2) a state regulatory agency suspends or revokes the Cannabis Business’ state cannabis license.
- F. A Cannabis Business shall be subject to any relevant City municipal codes, provided the City conducts its review under the municipal codes within the timelines provided in this Chapter and

the code(s) do not materially conflict with the Chapter.

- G. A Cannabis Business may sell or transfer interest in or shares of the Cannabis Business to fund its capital expenses, or for other purposes. A Cannabis Business may only sell or transfer one hundred percent (100%) of the interest in or shares of the Cannabis Business with the prior written approval of the City Manager. Any new Owner(s) will be subject to all the requirements of this Chapter and terms of the Cannabis Business' public benefit agreement.
- H. A Cannabis Business that has obtained a license in the City may transfer its license to another Premises that is located in areas allowed by Section 5.15.030 only with a written letter from the City Manager confirming the new Premises meets all of the requirements in this Chapter. If the City Manager fails to issue a written letter confirming or denying the new Premises meets the requirements of this Chapter within thirty (30) days of a written request from a Licensee, the transfer shall be deemed approved and the Licensee may transfer his/her/its license to the new Premises.

5.15.100—Amendment of this Chapter.

This Chapter shall only be amended by a subsequent vote of the people. Notwithstanding any other law or provision in this Chapter, the City Council shall have the right and the ability to amend or modify this Chapter under the following circumstances:

- A. After this Chapter has been in effect in the City for a period of three (3) years, the City Council, in its sole and exclusive discretion, determines that regulations or zoning outlined in the Chapter warrant adjustment due to inflation, unreasonable cost burdens to the City or Cannabis Business(es), unreasonable regulatory burdens to the City or Cannabis Business(es), or that a zoning or regulatory restriction contained in this Chapter has created any other unnecessary or unanticipated burden to the City or Cannabis Business(es), the City Council shall be granted the power to modify this Chapter to relax the zoning or regulatory burdens on the City and/or Cannabis Business(es). Except as provided in Subsection 5.15.100(B), the City Council may not impose new regulations or restrict any of the activities originally approved under this Chapter.
- B. If the City Attorney determines that the regulations or zoning established in this Chapter no longer conform to the California State regulations for Cannabis activity, the City Council shall be granted the power to make the changes necessary to bring the City's regulation of Cannabis Businesses into compliance with current state law, provided that the City Attorney and/or City Council has no discretion to prohibit the activities allowed by this Chapter.

Section 5. Chapter 5.27 of the City's Municipal Code is hereby amended, in part, to read as follows:

The definition of "Cannabis" in Section 5.27.020 is amended to read as follows, "'Cannabis' means the substance defined in Section 5.15.020(A) of this code, or any successor section."

Section 6. Chapter 25.32 of the City's Municipal Code is hereby amended, in part, to read as follows:

Subsection 25.32.002(F)(7) is added to read as follows, "(7) Cannabis Businesses allowed under Chapter 5.15 of this code, or any successor chapter."

Section 7. Section IV (Land Use) of the Laguna Canyon Annexation Area Specific Plan is hereby amended, in part, to add a Storefront Cannabis Retail Business and a Delivery-Only Cannabis Business, approved under Laguna Beach Municipal Code Chapter 5.15, as a permitted use within the M-1B Light Industrial Zone.

Section 8. Effective Date

This Initiative is considered adopted and effective upon the earliest date legally possible after the Elections Official certifies the vote on the Initiative by the City's voters. All references to days in this Initiative mean calendar days regardless of holidays, business hours, *etc.*

Section 9. Implementation of this Initiative

Upon the effective date of this Initiative, the City is directed to promptly take all appropriate actions needed to implement this Initiative, including but not limited to taking any steps necessary to update any and all City maps, figures, general plans, local coastal programs, and any other documents maintained by the City so they conform to the legislative policies set forth in this Initiative. The City Council and City Staff are authorized to make conforming amendments and/or interpretations to the General Plan, Zoning Code, Land Use Maps, Laguna Canyon Annexation Area Specific Plan, Local Coastal Program, and/or other City documents to implement and ensure consistency with this Initiative. The subsequent actions and amendments needed to implement this Initiative shall not delay the licensing and opening of the Storefront Retailer and Delivery-Only Businesses. The People of the City of Laguna Beach declare that the Cannabis Businesses authorized under this Initiative may open for business before or during the City's processing of any subsequent actions or amendments.

Section 10. Severability

- A. This Initiative must be interpreted so as to be consistent with all state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Initiative. The voters declare that this Initiative, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one (1) or more sections, sub-sections, sentences, clauses, phrases, parts, or portions is found to be invalid. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Initiative that can be given effect without the invalid application.
- B. If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Laguna Beach indicate our strong desire that the City Council use its best efforts to sustain and re-enact that portion, and the City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative.
- C. This Initiative must be broadly construed in order to achieve the purposes stated above. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City and others in a manner that facilitates the purpose set forth in this Initiative.

Section 11. Consistency with Other Ballot Measures

This Initiative is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot by any means that addresses the same subject matter as this Initiative (each, a “Conflicting Initiative”). In the event that this Initiative and one (1) or more Conflicting Initiatives are adopted by the voters at the same election, then it is the voters’ intent that only the measure which receives the greatest number of affirmative votes shall control in its entirety and said other measure or measures shall be rendered void and without any legal effect. In no event shall this Initiative be interpreted in a manner that would permit its operation in conjunction with the non-conflicting provisions of any Conflicting Initiative. If this Initiative is approved by the voters at the same election, and such Conflicting Initiative is later held invalid, this Initiative shall be self-executing and given full force of law.

Section 12. California Environmental Quality Act

The People of the City of Laguna Beach find that locating a Storefront Cannabis Retail Business or Delivery-Only Cannabis Business within the Light Industrial Zone (M-1A) and Light Industrial Zone (M-1B) land use zones abutting Laguna Canyon Road/CA-133 is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

Section 13. Next Election

The undersigned voters of Laguna Beach do hereby request that this Initiative be put to a vote of the people in the next regular or special municipal election.



Kaveh Niknia
Laguna Local, LLC
P.O. Box 1596
Laguna Beach, CA 92652

Residential address
2160. S. Coast Hwy
Laguna Beach CA 92611
949 838 7868 Cell phone

December 8, 2021

Re: Notice of Intent to Circulate Petition

Dear Mr. Niknia:

On December 6, 2021, my office received a Notice of Intent to Circulate Petition signed by you with the text of a proposed initiative measure for the adoption of an ordinance for "Safe Regulation of Cannabis."

On December 6, 2021, I informed you via email that a replacement Notice of Intent to Circulate Petition must be submitted that includes the residential address of the proponent(s); a post office box is not sufficient.

Upon further review, **the below required statement signed and dated by each proponent of the measure that conforms to the requirement of Elections Code section 9608 was omitted and needs to be included in your revised Notice of Intent to Circulate Petition:**

I, Kaveh Niknia, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

If a revised Notice of Intent to Circulate with the required information is not received by the Laguna Beach City Clerk's Office by **Friday, January 7, 2022**, your submittal will be deemed abandoned.

Thank you for your anticipated prompt attention to this matter.

Regards,


Ann Marie McKay
City Clerk



cc: City Attorney