

## **INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

### **“An Initiative to Require Voter Approval for Major Commercial Projects.”**

#### **To the City Council of the City of Laguna Beach:**

We, the undersigned, registered and qualified voters of the State of California, residents of the City of Laguna Beach, pursuant to Section 3 of Ordinance XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the City Council of the City of Laguna Beach this petition and request that the following proposed ordinance be submitted to the registered and qualified voters of the City of Laguna Beach for their adoption or rejection at an election on a date to be determined by the Laguna Beach City Council. We further request the Laguna Beach City Council place this amendment on the ballot pursuant to the California State Election Code 9200-9226.

#### **The proposed amendment reads as follows:**

The people of Laguna Beach find that:

- (a) Laguna Beach is in a unique location, at the mouth of a canyon opening onto the ocean, served only by Coast Highway and Laguna Canyon Road; therefore increases in traffic are of paramount concern for community issues such as public safety, public health, and the quality of life.
- (b) Due to the natural limitations of the physical size of the city and proximity to the beach, the current level of development dictates the need for careful management of further intensification of land use in the city.
- (c) The look and feel of Laguna Beach includes walkable commercial districts, tree-lined streets, and a variety of low-scale buildings, creating a welcoming atmosphere for visitors and residents alike requiring protection of the current environment.
- (d) Over the years, Laguna Beach has developed unique commercial districts consisting of an “Organic Mosaic” of individual buildings that were built and then redeveloped at different times by different owners. The years have left Laguna with a pleasing and eclectic pattern of development that should be preserved by continuing essential elements of the current height and density zoning provisions of commercial development.
- (e) As the city evolves and changes with the times, commercial development should:
  - Be unique, not part of large, monolithic developments.

- Be responsible, so that each project fully mitigates the impact it has on its neighbors, Laguna residents, and visitors. This includes traffic, parking, scale, and aesthetic impacts.
- Be innovative in finding ways to preserve the well-known value of Laguna Beach's look and feel.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF LAGUNA BEACH DO ORDAIN AS FOLLOWS:

**Sec. \_\_\_\_ 1. Code Amendment.**

This ordinance amends the Laguna Beach Municipal Code as follows and supersedes any provisions that are inconsistent with this ordinance and shall be known as “An Initiative to Require Voter Approval for Major Commercial Projects.”.

**Sec. \_\_\_\_ 2. Purpose.**

It is the purpose of this ordinance to:

- (a) Give the voters of Laguna Beach the ability to determine whether Laguna Beach should allow Major Commercial Projects, as defined below, by requiring voter approval of any such projects and thereby ensuring maximum public participation in major land use and zoning changes proposed in Laguna Beach;
- (b) Ensure that the voters of Laguna Beach receive all necessary and accurate environmental information on proposals for Major Commercial Projects, so that they can intelligently vote on any such proposal;
- (c) Ensure that all elements of the land use change approved by the voters are implemented; and
- (d) Protect the public health, safety and welfare, and the quality of life, for all persons living or working or visiting in Laguna Beach.

**Sec. \_\_\_\_ 3. Definitions.**

The definitions set forth in this section apply to the provisions of this ordinance only and do not affect any other provision of law.

- (a) “**As-Built Condition**” means the office and other nonresidential units, buildings and baseline traffic conditions existing at the time Laguna Beach issues the notice

of preparation of an environmental impact report for the Major Commercial Project, or, where no such notice is issued, on the date the application for the Major Commercial Project is deemed complete. Conditions that exist in violation of Laguna Beach's zoning ordinance and are subject to Laguna Beach's power of abatement, shall not be accounted for in the As-Built Condition for the purpose of determining whether a development is a "Major Commercial Project" as defined in subdivision (i) below.

- (b) "**Average Daily Trips**" means the number of vehicle trips that a development project would generate on a daily basis. Trips generated shall be calculated by using the most recent version of the Trip Generation Manual of the Institute of Transportation Engineers ("ITE") in effect on the date the City of Laguna Beach issues the notice of preparation of an environmental impact report for a Major Commercial Project or, where no such notice is issued, on the date the application for the Major Commercial Project is deemed complete. Further, a Daily Trip is a motor vehicle either leaving or arriving at said property during a given day. Also, for purposes of counting trips, any vehicle with a Gross Vehicle Weight Rating (GVWR) greater than 6,000 (six thousand) pounds, shall be counted as generating two (2) trips for every trip attributed to this sized vehicle.
- (c) "**Combining Lots**": means the Merger of two or more parcels, as defined in Section 66451 of California Government Code, including, but not limited to lot line adjustments.
- (d) "**Cumulative Effect**" means the development project, when considered together with other developments permitted by the City in the past eight years, and with those in process of approval at the time of application, and that are located within one-half mile of the project, will cause a Major Traffic Increase or will cause the construction of more than 45,000 square feet of floor area. Cumulative effects shall be calculated by adding 80% of the square footage of the floor area and traffic impacts of the applicable previous projects with the square footage and traffic impacts of the project under consideration.
- (e) "**General Plan**" means the General Plan of the City of Laguna Beach in effect as of the effective date of this ordinance, or as may be amended pursuant to this ordinance.
- (f) "**Large Scale Development**" means a development that will

1. Exceed 45,000 square feet of total floor area;

2. Combine two or more contiguous lots to create a single parcel exceeding 6,000 square feet, except that combining a single parcel that was less than 1,200 square feet on or before December 31, 2019 shall be exempted; or
3. In a development exceeding 10,000 total square feet, increase the height of an existing building.

(g) **“Major Commercial Project”** means a commercial development or redevelopment project, or a residential development or redevelopment project with 10 or more residential units, that significantly increases traffic, density or intensity of use by any of the following in Laguna Beach:

1. WORSENS TRAFFIC by causing a Major Traffic Increase;
2. WORSENS PARKING by causing Major Parking Impacts;
3. BUILDS A LARGE SCALE DEVELOPMENT; or
4. CAUSES A CUMULATIVE EFFECT.

(h) **“Major Traffic Increase”** means the project will generate 200 or more additional average daily trips in Laguna Beach.

(i) **“Major Parking Impacts”** means:

1. The project will provide fewer parking spaces than the Reasonably Necessary Number of Parking Spaces; or
2. The developer will pay an in-lieu parking fee that is less than the Value of Additional Parking Spaces

(j) **“Municipal Code”** or **“Laguna Beach Municipal Code”** means the Municipal Code of the City of Laguna Beach.

(k) **“Proponent”** means any individual, firm, association, syndicate, partnership, limited liability company, limited liability partnership, corporation, trust or any other legal entity applying to Laguna Beach for entitlements for a development project. If Laguna Beach itself initiates the change, it shall be deemed the Proponent for the purposes of this ordinance.

(l) **“Reasonably Necessary Number of Parking Spaces”** means

1. Two (2) parking spaces per 1,000 square feet of gross floor area for:

- A. Furniture stores, appliance stores, machinery rental or sales stores (excluding motor vehicle rental or sales) and similar establishments which handle only bulky merchandise; or
  - B. Commercial service establishments, such as shoe repair, tailor, dry cleaning, TV repair or other uses of a similar nature.
2. Four (4) parking spaces per 1,000 square feet of gross floor area for:
- A. Medical offices and clinics, including chiropractors, optometrists, and dentists;
  - B. General office and other business, technical, service, administrative or professional offices.
  - C. Hair salons or barbershops;
  - D. Other personal service establishments including tanning salons, nail salons, fitness centers, spas, massage services or uses of a similar nature;
  - E. General retail stores;
  - F. Art galleries;
  - G. Commercial banks, savings and loan offices, other financial institutions;
  - H. Shopping centers;
  - I. Food stores, grocery stores, supermarkets or similar uses and caterers.
  - J. Liquor stores, convenience stores or mini-markets
4. 10 parking spaces per 1,000 square feet of gross floor area for:
- A. Group counseling/meetings;
  - B. Entertainment, including bars, cocktail lounges, night clubs;
  - C. Food services including, but not limited to restaurants, drive thrus, take-outs, fast-food and full-service; bakeries, ice cream stores; juice bars; delicatessens.

5. For multi-family residential buildings and/or artist's joint living and working quarters, constituting Large Scale Developments, the Reasonably Necessary Number of Parking Spaces means: 1 1/2 spaces for every studio or 1-bedroom unit; 2 spaces for every unit with 2 or more bedrooms; 1 additional guest space for 4-bedroom units; and 1 additional guest space for every 4 bedrooms thereafter.
  6. For bed and breakfast inns and hotels/motels, the Reasonably Necessary Number of Parking Spaces means: 1 space for each guest room, which opens to a public way or corridor, yard or court, plus 1 additional space for every 15 guest rooms or fraction thereof, plus 2 spaces per each residence.
  7. For assembly halls, conference facilities, or clubs, the Reasonably Necessary Number of Parking Spaces means: 1 space for each 3 fixed seats or 1 space for each 35 square feet of assembly area, whichever is greater.
  8. For mixed uses, the Reasonably Necessary Number of Parking Spaces for any structure where more than one of the uses in 1-5, above, is conducted shall be calculated by combining the Reasonably Necessary Parking Spaces for each use listed above that is conducted in the structure.
  9. Credit—The calculation of Reasonably Necessary Number of Parking Spaces shall include a credit for parking space exemptions or credits granted prior to December 31, 2019.
- (m) **“Specific Plan”** means any existing Specific Plan in effect as of January 1, 2020 or any Specific Plans as may be amended pursuant to this ordinance or any new Specific Plans which shall be approved by both the Laguna Beach City Council as well as the voters of Laguna Beach pursuant to this ordinance.
- (n) **“Value of Additional Parking Spaces”**: The City shall at least every 24 months calculate and publish the “Value of Additional Parking Spaces” based on the value of land and other project costs that would be required to build parking spaces in each of the City’s commercial districts. In no case shall the Value of Additional Parking Spaces be less than the value of land and construction costs.

**Sec. \_\_\_\_ 4. Effective date; Applicability.**

- (a) This ordinance shall be binding and effective as of the earliest date allowed by law (the “Effective Date”). At its first public meeting following completion of the canvass of votes, the Laguna Beach City Council shall pass the resolution required by Elections Code Section 9266. The following day, the elections official of

Laguna Beach shall cause a copy of the complete text of the adopted measure to be filed with the Secretary of State pursuant to Government Code Sections 34459 and 34460.

- (b) Pursuant to Elections Code Section 9205, all Major Commercial Projects approved by the Laguna Beach City Council on or after the date of publication of the notice of intention to circulate the initiative petition adding this ordinance to the City Municipal Code, shall be subject to the provisions of this ordinance.

**Sec. \_\_\_\_5. Vote of the Laguna Beach Electorate on a Major Commercial Project.**

- (a) Each Major Commercial Project shall be put to a vote of the Laguna Beach electorate; provided, however, that no such change shall be submitted to the Laguna Beach electorate unless the Laguna Beach City Council has first approved the change pursuant to all state and local laws applicable to approval of land use changes by the legislative body, and decisions have been rendered on any administrative appeals of that approval. A Major Commercial Project shall become effective only after approval by the Laguna Beach City Council and a majority of the Laguna Beach Electorate voting “YES” on a ballot measure proposing such change at either a regular or special municipal election. An advisory election does not satisfy the voter approval requirement.
- (b) The sample ballot materials mailed to the registered voters of Laguna Beach prior to an election shall describe any Major Commercial Project in a manner that clearly discloses both the scope and main features of the proposal (including any and all phases) that the Major Commercial Project consists of or depends on, and the location and the acreage of the project site. The description shall include the text of any proposed amendment to the General Plan, to Laguna Beach’s zoning ordinance or of any proposed adoption or repeal of, or amendment to, a Specific Plan. The description shall clearly compare the proposal and its traffic impacts both to the As-Built Condition and to existing applicable land use designations and zoning classifications, providing accurate comparative data concerning existing as well as proposed densities (in units per acre), intensities of use (in square footage, types of use and traffic impacts), and height. The description shall disclose the Average Daily Trips of the As-Built condition as compared to the project at build-out. If a site-specific development is proposed in connection with a Major Commercial Project, and existing densities or intensities of use in such site-specific development are less than the densities or intensities the Major Commercial Project proposes, the text of the ballot shall clearly disclose the maximum total residential, commercial, industrial or other nonresidential build-out potential, and traffic impacts under build-out, compared to the As-Built Condition. Easily readable maps shall be used to assist the voters in the proposal description. All of the information called for by this subdivision shall be posted on Laguna

Beach's website no later than ten (10) days prior to the Laguna Beach City Council's action on a Major Commercial Project, and such information shall be updated no later than two business days following the Laguna Beach City Council's action.

- (c) For all Major Commercial Projects approved by the Laguna Beach City Council on or after the effective date of this ordinance, the resulting election required by this ordinance shall be set for the first regular municipal election following City Council approval of the Major Change in Allowable Land Use; or, by mutual agreement with the Proponent, the Laguna Beach City Council may call a special municipal election, with the cost of the special election borne solely by the Proponent.
- (d) The popular vote required by this ordinance shall be in addition to all other applicable review and approval requirements for such Major Commercial Project, including environmental review in compliance with the California Environmental Quality Act ("CEQA").
- (e) All subsequent City permits and approvals necessary to implement all or part of a Major Commercial Project shall conform to the voter-approved change. Under no circumstances shall any subsequent permit or approval authorize, allow or otherwise accommodate higher densities, higher heights, intensities of use, or trip generation than the densities, intensities and trip generation approved by the Laguna Beach City Council and the voters. Under no circumstances shall any subsequent permit or approval authorize, allow, or otherwise accommodate changes in parking plans.
- (f) No certificate of occupancy for any structure built as part of a proposal that depends on a Major Commercial Project shall be issued until:
  - 1) All mitigations of traffic and parking impacts, as may be required by the Laguna Beach City Council, have been developed and implemented, and the Director of Community Development has certified completion and operation of all traffic impact mitigations in full compliance with the Laguna Beach City Council's approval action; and
  - 2) Laguna Beach has received payment of the then current fees and a fully enforceable agreement between Laguna Beach and the Proponent specifying any other considerations to implement the appropriate mitigation measures.

- (g) Except as provided in Section 6, any permits or approvals issued without voter approval, where such voter approval is required under this ordinance, shall be null and void.

**Sec. \_\_\_\_ 6. Exceptions.**

- (a) This ordinance shall not apply to single-family residential projects or to exclusively residential projects of nine or fewer units.
- (b) This ordinance shall not apply to any Major Commercial Project that is limited to allowing the development of a public school, hospital, or house of worship.
- (c) This ordinance shall not preclude completion of a site-specific development that depends on a Major Commercial Project approved before the effective date of this ordinance, if before such date, the holder of any permit or other entitlement for use for such development has lawfully and in-good faith acquired a vested right, under state law, to carry out the development to completion.
- (d) The provisions of this ordinance shall not apply to the extent that they would violate state or federal laws.
- (e) This ordinance shall not be applied in a manner that would result in an unconstitutional taking of private property.
- (f) This ordinance shall not apply to affordable housing proposals required by state or federal law.

**Sec. \_\_\_\_ 7. Relationship to Municipal Code.**

If any provision of this ordinance conflicts with other provisions contained in the Laguna Beach Municipal Code, the provisions of this ordinance shall supersede any other conflicting provision.

**Sec. \_\_\_\_ 8. Amendments.**

No provision of this ordinance may be amended or repealed except by a vote of the people of Laguna Beach.

**Sec. \_\_\_\_ 9. Judicial Enforcement.**

Any aggrieved person shall have the right to bring an action to enjoin any violation of this ordinance or to enforce the duties imposed on the City of Laguna Beach by this ordinance.

**Sec.\_\_\_\_10. Construction.**

This ordinance shall be liberally construed to accomplish its purposes. Nothing herein shall be construed to make illegal any lawful use being made of any land in accordance with City land use and zoning regulations in force before the effective date of this ordinance.

**Sec.\_\_\_\_11. Consistency with Other Ballot Measures.**

If another ballot measure is placed on the same ballot as this measure and deals with the same subject matter, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

**Sec.\_\_\_\_12. Severability.**

If any section, subdivision, clause, sentence, phrase or portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining sections, subdivisions, clauses, sentences, phrases and portions shall remain valid and enforceable. The voters declare that they would have passed all sections, subdivisions, clauses, sentences, phrases and portions of this ordinance without the section, subdivision, clause, sentence, phrase or portion declared invalid by a court of competent jurisdiction.