

## INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

### Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear below of their intention to circulate the petition within the City of Laguna Beach for the purpose of amending the Municipal Code to require voter approval for major development projects. A statement of reasons for the proposed action as contemplated in the petition is as follows:

Laguna Beach residents value their community for its small-city charm, walkable commercial districts and high quality of life. In recent years, Laguna Beach has seen a remarkable surge in interest in hotel developments incorporating zone changes, density increases, parking reductions and special events allowing outdoor events and parties. The proliferation of hotels in Laguna Beach threatens to undermine its charm by increasing traffic and congestion, irrevocably altering the character of local retail often to further cater to luxury guests. Also, major illegal, unpermitted hotel development has been permitted to remain with minimal effort to obtain compliance. As the city evolves in the future, the citizens resolve that new hotel development and major hotel remodels shall:

- Conform with certain core development standards designed to maintain compatibility with Laguna Beach's existing development and generally low-rise scenic coastal setting, including density, parking, open space and height;
- Comply with existing land use and building rules before obtaining building permits for additions or alterations to existing hotels; and
- Mitigate the impacts of parking, congestion and other nuisances on Laguna Beach residents.

The proposed Hotel Development Overlay Zoning District will require all Hotel Development Projects to comply with certain development standards for density, parking, open space and height. The Overlay will require a zone change and voter approval for the following types of hotel developments: (1) Major Hotel Development Projects adding more than 20 guest rooms; (2) Major Remodels; and (3) Hotel Development Projects with significant existing illegal or unpermitted construction. These categories of projects must conform with the hotel development standards or will require a zone change and voter approval. Minor Hotel Development Projects would be eligible for variances where justified.

Therefore, we submit the “Initiative to Create the Hotel Development Overlay Zoning District and Require Voter Approval for Hotel Development Projects”

Original Signed by: NAME PROPONENTS

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**Name of Proponent**

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**Name of Proponent**

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**Name of Proponent**

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**Signature**

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**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, present to the City Council of the City of Laguna Beach this petition and request that the following proposed ordinance be adopted by the Council without alteration, or submitted immediately to the registered and qualified voters of the City of Laguna Beach for their adoption or rejection at an election, as provided by law.

**THE PEOPLE OF THE CITY OF LAGUNA BEACH DO ORDAIN AS FOLLOWS:**

**Section 1. Code Amendment.**

This ordinance shall be known as the “Initiative to Create the Hotel Development Overlay Zoning District and Require Voter Approval for Hotel Development Projects.” This ordinance creates a new Section 25.57 of the City of Laguna Beach Municipal Code (“LBMC”), reading as follows:

**Section 25.57. Right to Vote on Hotel Development Projects Not Compliant with Zoning Standards.**

**25.57.01. Legislative Findings.**

The people of the City of Laguna Beach find that:

- (a) WHEREAS, Laguna Beach is a uniquely desirable location for residents and tourists alike, with pristine beaches and charming beach-side neighborhoods balancing the advantages of a tourist economy with the needs of preserving Laguna Beach’s small-city character, walkable commercial districts, tree-lined streets and low-scale buildings.
- (b) WHEREAS, the over-development of hotels along State Routes 1 and 133 in recent years has raised concerns that further hotel developments could overwhelm the local character of adjacent business communities and increase conflict with adjacent residences. Further hotel development raises concerns of the adequacy of police, fire and park resources and will contribute to increasing traffic congestion.
- (c) WHEREAS, hotel developments encroaching into setbacks for oceanfront bluffs, beaches and the Pacific Ocean are nonconforming and conflict with the policy of Laguna Beach to strictly protect its scenic and coastal resources. It is the policy of the City to eventually bring hotel developments into conformance with required setbacks from bluffs, beaches and the Pacific Ocean.
- (d) WHEREAS, the city has encountered significant obstacles in requiring the removal of illegally-installed structures and the remediation of illegal grading for hotel projects, including limited enforcement capability and overlapping jurisdiction with the Coastal Commission. The citizens intend to create a new enforcement

mechanism to ensure that illegal construction and grading are brought into conformance.

**25.27.02. Definitions.**

“Hotel Development Project” means any addition, alteration, construction or Major Remodel of any hotel including Major Hotel Development Projects and Minor Hotel Development Projects.

“Major Hotel Development Project” means the conversion or addition of guest rooms resulting in 20 or more guest rooms beyond the number of guest rooms permitted in the most recent certificate of occupancy for the site.

“Minor Hotel Development Project” means any Hotel Development Project except a Major Hotel Development Project.

“Project Proponent” means any person, 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 Project Proponent for the purposes of this ordinance.

**25.27.03. Laguna Hotel Overlay District.**

(A) Purpose. The purpose of Laguna Hotel Overlay District is to create an overlay district governing procedures for hotel development in the most visible and most used communities of Laguna Beach, to ensure that these communities will be protected and enhanced by compatible hotel development. The development standards ensure that the scale and nature of hotel development will complement the beach city aesthetic and minimize externalities suffered by residents related to insufficient parking, special events and beach encroachments. Projects not conforming with these core development standards require City Council approval and are subject to democratic oversight.

(B) Location and Application: The Laguna Hotel Overlay District consists of all property in the City of Laguna Beach within 1,000 feet of the center-line of either CA State Route 1 or CA State Route 133.

(C) Development Standards. All development regulations for uses other than hotels shall be governed by the development standards of the underlying zone. A proposed Hotel Development Project in the Laguna Hotel Overlay District shall comply with the following development standards:

1. Hotel Density. Density shall be limited to one guest room or suite per 800 square feet of land area.
2. Hotel Parking.

(a) Notwithstanding the provisions of LBMC Section 25.52.012(G) to the contrary, required parking for a hotel shall be: 1.5 spaces for each room (as defined in Chapter 25.08), which opens to a public way or corridor, yard or court, plus 1 space for each 15 rooms or fraction thereof, plus 2 spaces per each residence.

(b) Notwithstanding the provisions of LBMC Section 25.52.012(G) to the contrary, no parking reduction shall be granted to ancillary uses.

3. Hotel Open Space Requirements.

(a) Open space shall equal thirty-five percent of the nonresidential gross floor area, exclusive of parking and driveways, which area may be used for landscaping, pedestrian access or similar pedestrian facilities, accessible to the general public.

(b) Additional open space shall be provided for residential uses equaling a minimum of forty percent of the total gross living areas.

(c) All open space requirements are subject to the standards of Section 25.50.010.

4. Building Height Standards. The Laguna Hotel Overlay District adopts the building height standards of a property's underlying zone. The building height standards of a property's underlying zone are hereby incorporated into the Laguna Hotel Overlay District.

(D) Major Remodels.

1. Definition. For purposes of this definition, "Major Remodel" means the addition to or alteration of an existing Hotel Development Project building or structure in the Laguna Hotel Overlay District if any one of the following occurs at any time over a five year period:

a. Demolition, removal and/or reconstruction of 15% or more of the total existing above grade exterior wall area (both exterior cladding and framing systems and exterior openings) of the sum of existing buildings on a property. Any continuous run of remaining exterior wall surfaces measuring 10 feet or less in length are counted as removed and/or replaced;

b. Demolition, removal and/or reconstruction of 15% or more of the combined total area(s) of the existing roof framing system and structural floor systems, not including eaves or decks, of the sum of existing buildings on a property;

c. One or more additions to an existing building or structure that increases the total square footage of the sum of existing buildings on a property by 15% or more; or

d. Reconstruction, addition or other improvement of structures, the cost of which, (as determined by the Building Official utilizing valuation tables for new construction established by City Council Resolution to compute building permit fees), equals or exceeds 15% of the valuation of the sum of existing buildings on a property.

This definition of "Major Remodel" does not apply to: the replacement and upgrading for compliance with state-mandated earthquake retrofitting safety standards; compliance with flood prevention regulations; compliance with state-mandated energy efficiency standards; compliance with the Americans with Disabilities Act (ADA); roof coverings; foundation repair; filling in of existing window and door openings; window replacement in existing openings and reconstruction of roofs or foundations without any physical expansion.

2. Nonconforming Rights. Whenever modifications to existing buildings or structures within a Hotel Development Project in the Laguna Hotel Overlay District constitute a Major Remodel, the construction shall constitute and be classified as a new building or structure subject to current development standards of the subject zone and all requirements applicable to the construction of a new building or structure including utilities undergrounding requirements, required dedication of on- and off-site improvements and payment of new development fees.

(E) Existing Violations and Unpermitted Work. No building, addition, alteration, grading, demolition or development permit for any Hotel Development Project in the Laguna Hotel Overlay District shall issue until the Director of Community Development objectively certifies ("Director Certification") that all existing development and operations are in conformance with the LBMC, the Local Coastal Program and any conditions of approval of any Coastal Development Permit or other local land use or Community Development Department approval or permit with respect to the following conditions: (1) guest room density; (2) beach and bluff setbacks; (3) beach and bluff grading; (4) required parking; or (5) coastal access.

(F) Relief from Hotel Development Standards in the Laguna Hotel Overlay District.

1. Minor Hotel Development Projects not conforming with the development standards in LBMC Section 25.27.03(C) shall make the findings and comply with the application, notice, appeal and other procedures of LBMC Section 25.05.025 (Variances). Where the findings for a variance cannot be made, Minor Hotel Development Projects shall require a zone change and voter approval of the zone change according to the procedures set forth in Section 25.27.04.

2. Major Hotel Development Projects not conforming with the development standards in LBMC Section 25.27.03(C) shall require a zone change and voter approval of the zone change as set forth in Section 25.27.04.

3. Major Remodels not in conformance with development standards in LBMC Section 25.27.03(C) shall require a zone change and voter approval of the zone change as set forth in Section 25.27.04.

4. Any Hotel Development Project not receiving a Director Certification as set forth in LBMC Section 25.27.03(E) shall require a zone change and voter approval of the zone change as set forth in Section 25.27.04.

5. Hotel Development Projects requiring relief pursuant to more than one provision above shall obtain the required relief according to each provision.

(G) Exceptions to the Laguna Hotel Overlay District.

1. This ordinance shall not apply to the repair, replacement, restoration, or reconstruction of any existing building, structure or improvement, whether conforming or nonconforming, which has been damaged by fire, flood, wind, earthquake, or other disasters, up to the original size, placement and density subject to any other applicable requirements of the LBMC.

2. This ordinance shall not apply to prevent the completion of a Hotel Development 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 obtained a building permit for the Hotel Development Project and in good faith acquired a vested right, under state law, to carry out the development to completion.

**25.27.04. Hotel Development Project Zone Change and Vote of the Laguna Beach Electorate.**

(A) The approval by the City Council of a Zone Change to remove the property from the requirements of the Laguna Hotel Overlay District pursuant to LBMC Section 25.27.03-F shall comply with the following procedures:

1. The Planning Commission shall hold a hearing on any such zone change request, providing at least 10 days' notice in at least one newspaper of general circulation or posting in three public places, and delivered to all persons who have requested to receive such notifications. Notice must also be provided at least 10 days in advance to the property owner, the applicant, and owners, renters, and lessees within 1,000 feet of the property.

2. The Planning Commission may recommend to the City Council that it adopt or reject the zone change to remove the property from the Laguna Hotel

Overlay District. In making its recommendation, the Planning Commission may recommend conditions and mitigating measures to modify the proposal.

3. The City Council must hold a public hearing to consider granting the zone change, providing notice as described in subsection (1). The City Council may approve, disapprove or modify the recommendation of the Planning Commission, including the addition or removal of conditions and mitigating measures.

4. In determining whether to grant a zone change to allow for a Hotel Development Project in the Laguna Hotel Overlay District, the City Council must make findings that:

(a) the Hotel Development Project will provide on-site mitigation for any affordable accommodations removed for the project in compliance with Local Coastal Program Policy 6.2.2.

(b) the Hotel Development Project provides sufficient on-site parking to meet peak parking demand for the Project's guests, patrons and employees without relying on off-site parking.

(B) A Hotel Development Project shall be considered to be approved only after approval of the zone change to remove the property from the Laguna Hotel Overlay District by both the Laguna Beach City Council and a majority of the Laguna Beach electorate voting "YES" on a ballot measure asking whether the zone change should be approved at either a regular or special municipal election. An advisory election does not satisfy the voter approval requirements of this Section.

(C) The sample ballot materials mailed to the registered voters of Laguna Beach prior to an election shall describe the Hotel Development Project in a manner that clearly discloses both the scope and main features of the development project (including any and all phases) that the Hotel Development Project consists of or depends on, whether and for what reason the Hotel Development Project did not receive a Director Certification as set forth in LBMC Section 25.27.03(E) and the location and the acreage of the development project site. All of the information called for by this subdivision shall be posted on the City of Laguna Beach's website no later than ten (10) days prior to the Laguna Beach City Council's hearing on a Hotel Development Project, and such information shall be updated no later than two business days following the Laguna Beach City Council's hearing.

(D) For all Hotel Development Project zone changes 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 zone change; or, by mutual agreement with the Project Proponent, the Laguna Beach City Council may call a special municipal election, with the cost of the special election borne solely by the Project Proponent.



(E) The zone change and popular vote required by this ordinance shall be in addition to all other applicable review and approval requirements for such Major Development Project, including environmental review in compliance with the California Environmental Quality Act (“CEQA”).

(F) All subsequent City permits and approvals necessary to implement all or part of a Hotel Development Project shall conform to the development project description presented to voters for approval pursuant to paragraph (B) of this Section.

(G) No certificate of occupancy shall be issued for a Hotel Development Project until the Project Proponent has paid all fees to the City of Laguna Beach, and all mitigation measures required by the Laguna Beach City Council have been fully implemented or the City Council and the Project Proponent have entered into an enforceable agreement to implement all mitigation measures.

(H) Any permits or approvals issued without voter approval, where such voter approval is required under this ordinance, shall be null and void.

(I) Property removed from the Laguna Hotel Overlay District shall revert back to the Laguna Hotel Overlay District under any of the following conditions:

1. If construction (other than demolition or grading) fails to begin within 36 months of voter approval, in which case, outstanding permits will be void, unless the holder of the permit has lawfully and in good faith acquired a vested right under state law.

2. Building permits for the project expire or are revoked.

3. The permitted project is resubmitted, or modified, other than a Minor Modification of a Major Development Project as defined in LBMC Section 25.60.02(i).

## **Section 2. Amendments.**

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

## **Section 3. 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.

## **Section 4. 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.

**Section 5. 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.