



T City of Laguna Woods, The City Of Laguna Woods Cannabis Business Tax Ordinance

To fund City services, shall a measure establishing a tax on cannabis businesses of the higher of the following rates: 4%-10% of gross receipts or \$5-\$35 per square foot for retail businesses; and 1%-10% of gross receipts or \$1-\$35 per square foot for other businesses, with certain rates increasing annually, generating an estimated \$750,000 annually if cannabis businesses were to be authorized in the future, until ended by voters, be adopted?

What your vote means

YES	NO
A "Yes" vote is a vote in favor of adopting the tax on cannabis businesses.	A "No" vote is a vote against adopting the tax on cannabis businesses.

For and against

FOR	AGAINST
Cynthia S. Conners Laguna Woods Mayor Pro Tem Shari Horne Laguna Woods Council Member	Carol Moore City of Laguna Woods Mayor

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Full Text of Measure T
City of Laguna Woods

ORDINANCE NO. 22-01

AN ORDINANCE OF THE PEOPLE OF THE CITY OF LAGUNA WOODS, CALIFORNIA, ADDING CHAPTER 3.18 TO TITLE 3 OF THE LAGUNA WOODS MUNICIPAL CODE ESTABLISHING A TAX ON CANNABIS BUSINESSES ENGAGED IN BUSINESS IN THE CITY OF LAGUNA WOODS

The People of the City of Laguna Woods do ordain as follows:

SECTION 1. Subject to the approval of a majority of the voters of the City of Laguna Woods at the General Municipal Election on November 8, 2022, Chapter 3.18 ("Cannabis Business Tax") is hereby added to Title 3 ("Revenue and Finance") of the Laguna Woods Municipal Code to read as follows:

Chapter 3.18. - CANNABIS BUSINESS TAX

- 3.18.010. - Title.
- 3.18.020. - Purpose and intent.
- 3.18.030. - Definitions.
- 3.18.040. - Tax imposed.
- 3.18.050. - Registration, reporting, and remittance of tax.
- 3.18.060. - Payments and communications - timely remittance.
- 3.18.070. - Payment - when taxes deemed delinquent.
- 3.18.080. - Notice not required.
- 3.18.090. - Penalties and interest.
- 3.18.100. - Refunds and procedures.
- 3.18.110. - Personal cultivation not taxed.
- 3.18.120. - Administration of the tax.
- 3.18.130. - Enforcement - action to collect.
- 3.18.140. - Apportionment.
- 3.18.150. - Audit and examination of premises and records.
- 3.18.160. - Other licenses, permits, taxes, fees, or charges.
- 3.18.170. - Payment of tax does not authorize unlawful business.
- 3.18.180. - Deficiency determinations.
- 3.18.190. - Failure to report - nonpayment.
- 3.18.200. - Tax assessment - notice requirements.
- 3.18.210. - Tax assessment - hearing and determination.
- 3.18.220. - Appeal procedure.
- 3.18.230. - Conviction for violation - taxes not waived.
- 3.18.240. - Severability.
- 3.18.250. - Remedies cumulative.
- 3.18.260. - Amendment or modification.

Sec. 3.18.010. - Title.

This ordinance shall be known as the Cannabis Business Tax Ordinance.

Sec. 3.18.020. - Purpose and intent.

(a) The purpose and intent of this chapter is to levy a tax, for revenue purposes, pursuant to California Government Code sections 37101 and 37100.5 on all cannabis businesses engaged in business in Laguna Woods, regardless of whether such business would have been lawful at the time this chapter was adopted ("cannabis business tax").

(b) The cannabis business tax is not a sales and use tax, a tax upon income, or a tax upon real property.

(c) The cannabis business tax is a general tax enacted solely for general, governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this chapter may be placed in the City's General Fund and be available for any lawful municipal purpose.

(d) Nothing in this chapter shall be interpreted to require the City to authorize the operation of cannabis businesses or to authorize any person to engage in business as a cannabis business, nor to regulate in any particular manner businesses that the City may authorize. Such decision making remains the purview and discretion of the City Council.

(e) Nothing in this chapter shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

Sec. 3.18.030. - Definitions.

The following words and phrases shall have the meanings set forth below when used in this chapter:

(05) *Business* shall include all activities engaged in or caused to be engaged in within Laguna Woods, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his, her, or their employer.

(10) *Calendar month* shall mean each of the 12 named periods into which a calendar year is divided.

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(15) *Calendar year* shall mean January 1 through December 31 of the same year.

(20) *Cannabis* shall have the same meaning as the term is defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code Section 26000, et seq., as amended from time to time or replaced with a successor statute. As of the date this chapter was adopted, the definition of “cannabis” was set forth in California Business and Professions Code Section 26001(e).

(25) *Cannabis processing or processing of cannabis* shall mean a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis, industrial hemp and non-manufactured cannabis products.

(30) *Cannabis product* shall have the same meaning as the term is defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code Section 26000, et seq., as amended from time to time or replaced with a successor statute. As of the date this chapter was adopted, the definition of “cannabis” was set forth in California Business and Professions Code Section 26001(h).

(35) *Cannabis business* shall mean any business activity involving cannabis or industrial hemp, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, cannabis products, industrial hemp, industrial hemp products or of ancillary products and accessories, and temporary cannabis events, whether or not carried on for gain or profit.

(40) *Cannabis business tax or business tax* shall mean the tax due pursuant to this chapter for engaging in a cannabis business.

(45) *Commercial cannabis cultivation* shall mean cultivation of cannabis undertaken in the course of engaging in a cannabis business.

(50) *Commercial cannabis permit* shall mean a permit issued by the City to a person to authorize that person to engage in business as a cannabis business.

(55) *Cultivation* shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis and includes, but is not limited to, the operation of a nursery.

(60) *Employee* shall mean each and every person engaged in the commencement, operation, conduct, management, or carrying on of any business, whether as owner, member of the owner’s family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter, or any other form of compensation.

(65) *Engaged in business as a cannabis business or engaged in business* shall mean the commencing, conducting, operating, managing, or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, operating from a fixed location in Laguna Woods whether permanently, temporarily, or intermittently. A person shall be deemed engaged in business if, without limitation:

- a. Such person or person’s employee maintains a fixed place of business within Laguna Woods for the benefit or partial benefit of such person;
- b. Such person or person’s employee owns, leases, or otherwise occupies real property within Laguna Woods for business purposes;
- c. Such person or person’s employee regularly maintains a stock of tangible personal property in Laguna Woods for sale in the ordinary course of business;
- d. Such person or person’s employee regularly conducts solicitation of business within Laguna Woods; or
- e. Such person or person’s employee performs work or renders services in Laguna Woods.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business.” For activities not listed above, the Tax Administrator shall have the authority to determine if a person is “engaged in business” as a cannabis business.

(70) *Evidence of doing business* shall mean evidence such as, without limitation, use of signs, circulars, cards, or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business.

(75) *Floor area* shall mean the total horizontal floor area of all floors, as well as of all balconies, patios, breezeways, stairways, open air rooms, seating areas, and other spaces constructed in a substantially similar manner, of a building owned, leased, or otherwise serving as a place of business for a cannabis business, whether indoors or outdoors, whether enclosed or unenclosed, measured in square feet, with no exception, and with any fractional value rounded to the next highest whole number.

(80) *Gross receipts*, except as otherwise specifically provided, shall mean, whether designated a sales price, royalty, rent, slotting fee, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, services, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise, or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act, or employment is done as part of or in connection with the sale of goods, wares, merchandise, or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

- a. Cash discounts where allowed and taken on sales;
- b. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- c. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;



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- d. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- e. Cash value of sales, trades, or transactions between departments or units of the same business located in Laguna Woods or if authorized by the Tax Administrator in writing in accordance with Section 3.18.120(b);
- f. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;
- g. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar (\$1.00);
- h. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the Tax Administrator with the names, mailing addresses, telephone numbers, and email addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agents or trustees; and
- i. Retail sales of bags, books, clothing, hats, key chains, posters, stickers, or other personal tangible property which the Tax Administrator has excluded in writing by issuing an administrative ruling per Section 3.18.120(b).

(85) *Nursery* shall mean a facility or part of a facility that is used only for producing clones, immature plants, seeds, or other agricultural products used specifically for the planting, propagation, or cultivation of cannabis.

(90) *Person* shall have the same meaning as the term is defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code Section 26000, et seq., as amended from time to time or replaced with a successor statute. As of the date this chapter was adopted, the definition of "person" was set forth in Section 26001(ao) of the California Business and Professions Code.

(95) *Sale, sell, and to sell* shall mean and include any sale, exchange, or barter. It shall also mean any transaction whereby, for any consideration, title to cannabis, cannabis products, industrial hemp, and/or industrial hemp products are transferred from one person to another and includes the delivery of cannabis, cannabis products, industrial hemp, and/or industrial hemp products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis, cannabis products, industrial hemp, and/or industrial hemp products to the licensee from whom the cannabis, cannabis product, industrial hemp, and/or industrial hemp product was purchased.

(100) *State* shall mean the State of California.

(105) *State license, license, or registration* shall mean a state license issued pursuant to California Business & Professions Code Section 26050, as amended from time to time or replaced with a successor statute, and all other applicable state laws, required for engaging in business as a cannabis business.

(110) *Tax Administrator* shall mean the City Manager of the City of Laguna Woods or his, her, or their designee.

(115) *Testing laboratory* shall have the same meaning as the term is defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code Section 26000, et seq., as amended from time to time or replaced with a successor statute. As of the date this chapter was adopted, the definition of "testing laboratory" was set forth in California Business and Professions Code Section 26001(av).

(120) *Year* shall mean a period of 365 consecutive calendar days.

Sec. 3.18.040. - Tax imposed.

(a) Beginning January 1, 2023, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax. Such tax is payable regardless of whether the cannabis business has been issued a commercial cannabis permit by the City or not. The City's acceptance of a cannabis business tax payment from a cannabis business engaged in business without a commercial cannabis permit shall not constitute the City's approval or consent to engage in such business.

(b) The City Council may, by resolution or ordinance, set, increase or decrease the rate of the cannabis business tax within the minimum and maximum prescribed range of tax rates. Notwithstanding the foregoing, in no event shall the City Council repeal this tax, or set any adjusted rate that is less than the minimum rate, nor that exceeds the maximum rate calculated pursuant to this section. Notice of any increase or decrease in a rate shall be given to all cannabis businesses registered pursuant to this chapter and directly affected by the change at least 60 calendar days in advance of the effective date in the manner prescribed in Section 3.18.200 for service of notice of a tax assessment.

(c) The minimum and maximum rate of the cannabis business tax shall be calculated as follows:

(1) *Cannabis Retail Sales*. For every person engaged in retail sales of cannabis and/or cannabis products, including without limitation, as a storefront retailer (dispensary) or non-storefront retailer (retail delivery business), or microbusiness, he/she/they/it shall be subject to the higher of the two following tax rates:

a. A minimum tax rate of four percent (4.0%), up to a maximum tax rate not to exceed 10 percent (10.0%) of gross receipts received or generated for each monthly reporting period, which the City Council may set at different rates by state license type; or

b. From January 1, 2023 to December 31, 2023, a minimum tax rate of five dollars (\$5.00) per square foot of floor area (annual tax rate) up to a maximum tax rate not to exceed 35 dollars (\$35.00) per square foot of floor area (annual tax rate) prorated monthly to one-

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twelfth (1/12) of the annual tax rate amount, which the City Council may set at different rates by state license type. On January 1, 2024 and on each January 1 thereafter, the maximum annual tax rate specified in this subsection shall increase by the percentage increase in the Consumer Price Index for all urban consumers in the Los Angeles-Long Beach-Anaheim area (or the closest comparable area if that area is discontinued) as published by the United States Government Bureau of Labor Statistics as of the immediately preceding June 30 prior to each January 1, with any fractional value rounded to the next highest whole number. However, no Consumer Price Index adjustment resulting in a decrease of any tax imposed by this subsection shall be made.

2) *Other Cannabis Businesses.* For every person engaged in any cannabis business not listed above, including without limitation, commercial cannabis cultivation, distribution, manufacturing, or processing of cannabis and/or cannabis products, a testing laboratory of cannabis and/or cannabis products, and a temporary cannabis event, he/she/they/it shall be subject to the higher of the two following tax rates:

a. A minimum tax rate of one percent (1.0%), up to a maximum tax rate not to exceed 10 percent (10.0%) of gross receipts received or generated for each monthly reporting period, which the City Council may set at different rates by state license type; or

b. From January 1, 2023 to December 31, 2023, a minimum tax rate of one dollar (\$1.00) per square foot of floor area (annual tax rate) up to a maximum tax rate not to exceed 35 dollars (\$35.00) per square foot of floor area (annual tax rate) prorated monthly to one-twelfth (1/12) of the annual tax rate amount, which the City Council may set at different rates by state license type. On January 1, 2024 and on each January 1 thereafter, the maximum annual tax rate specified in this subsection shall increase by the percentage increase in the Consumer Price Index for all urban consumers in the Los Angeles-Long Beach-Anaheim area (or the closest comparable area if that area is discontinued) as published by the United States Government Bureau of Labor Statistics as of the immediately preceding June 30 prior to each January 1, with any fractional value rounded to the next highest whole number. However, no Consumer Price Index adjustment resulting in a decrease of any tax imposed by this subsection shall be made.

(d) Persons subject to the cannabis business tax shall register with the City and pay the annual registration and processing fee pursuant to Section 3.18.050.

(e) If the minimum and maximum cannabis business tax rates set forth in this section are preempted by federal or state law, then the tax rate shall automatically become the maximum rate authorized by federal or state law without the need for an amendment to this chapter.

Sec. 3.18.050. - Registration, reporting and remittance of tax.

(a) *Registration of Cannabis Business.* All cannabis businesses shall be required to annually register as follows:

(1) All persons engaging in business as a cannabis business, whether an existing, newly established, or acquired business shall register with the Tax Administrator within 30 calendar days of beginning to engage in business and shall annually renew such registration within 31 calendar days of each subsequent calendar year thereafter. In registering, such persons shall furnish to the Tax Administrator a sworn statement, upon a form provided by the Tax Administrator, setting forth the following information:

- a. The name of the business;
- b. The names, mailing addresses, telephone numbers, and email addresses of each owner;
- c. The exact nature or kind of business;
- d. The place where such business is to be carried on; and
- e. Any additional information which the Tax Administrator may require.

(b) An annual registration and processing fee in an amount established by resolution of the City Council shall be presented with the sworn statement submitted under this section. This fee shall not be considered a tax and may be adjusted from time to time to fully compensate the City for cannabis business registration- and cannabis business tax payment processing-related costs (including indirect, overhead, and interfund costs calculated in the same manner as could lawfully apply to the City's building permit fees) by resolution of the City Council. The City Council may establish separate annual registration and processing fees to account for differences in costs associated with the processing of payments made by currency or other payment instrument. In doing so, the City Council reserves the discretion to limit and adjust the types of payments that it will accept and under what terms and conditions. For the purpose of this subsection, "processing of payments" shall mean all functions and activities that the City determines reasonably necessary to facilitate the acceptance, review, accounting, and deposit of cannabis business tax payments including, without limitation, personnel, consultants, transportation, security, and merchant fees incurred by the City.

(c) The cannabis business tax imposed by this chapter shall be paid, in arrears, on a monthly basis. Each person owing a cannabis business tax each calendar month shall, no later than the last day of the month following the close of the calendar month, file with the Tax Administrator a statement ("tax statement") of the tax owed for that calendar month and the basis for calculating that tax. The tax statement is required to be submitted on a form provided by the Tax Administrator. The cannabis business tax for each calendar month shall be due and payable on that same date that the tax statement for the calendar month is due.

(d) Upon cessation of a cannabis business, tax statements and cannabis business tax payments shall be due within 30 calendar days for all calendar months up to and including the calendar month during which cessation occurred.

(e) The Tax Administrator may, at his, her, or their discretion, establish alternative reporting and payment periods for any person owing a cannabis business tax as the Tax Administrator deems necessary to ensure efficient and effective collection of the cannabis business tax. Notice of the establishment of alternative reporting and payment periods shall be given to all cannabis businesses registered pursuant to this chapter and affected by such establishment at least 90 calendar days in advance of the effective date in the manner prescribed in Section 3.18.200 for service of notice of a tax assessment.

(f) The annual registration is separate from and in addition to any other licensing or permitting requirements for cannabis businesses, including but not limited to the requirement to obtain a commercial cannabis permit.

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(g) Failure to annually register a cannabis business and pay an annual registration and processing fee, failure to file a timely tax statement, and failure to pay cannabis business tax in accordance with this section are each a violation of this chapter punishable by suspension or revocation of the commercial cannabis permit and/or any and all penalties set forth in this chapter.

Sec. 3.18.060. - Payments and communications - timely remittance.

Whenever any cannabis business tax payment, statement, report, request, or other communication is due, it must be received by the Tax Administrator on or before the final due date. A postmark will not be accepted as timely remittance. If the due date would fall on a Saturday, Sunday, or a holiday observed by the City, the due date shall be the next regular business day on which the City is open to the public.

Sec. 3.18.070. - Payment - when taxes deemed delinquent.

Unless otherwise specifically provided under other provisions of this chapter, the cannabis business tax required to be paid pursuant to this chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in sections 3.18.050 and/or 3.18.060.

Sec. 3.18.080. - Notice not required.

The Tax Administrator may send a delinquency or other notice or bill to any person subject to the provisions of this chapter. Failure to send such notice or bill shall not affect the validity of any tax, penalty, interest, or fee due under the provisions of this chapter.

Sec. 3.18.090. - Penalties and interest.

(a) Any person who fails or refuses to pay any cannabis business tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

(1) For tax that remains unpaid for a period up to 30 calendar days beyond the due date, a penalty equal to ten percent (10%) of the amount of the tax due, in addition to the amount of the tax due.

(2) If the tax remains unpaid for a period exceeding 30 calendar days beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax due, plus interest at the rate of five percent (5.0%) per 30 calendar day period on the unpaid tax, penalties, and interest. Interest shall be applied on the first day of each 30 calendar day period for the full 30 calendar day period and will continue to accrue until the balance is paid in full.

(b) Whenever the Tax Administrator determines that the nonpayment of any cannabis business tax is due to fraud, misrepresentation, or deceit upon the City, a penalty equal to fifty percent (50%) of the amount of the tax due shall be added thereto in addition to any penalties and interest provided for above in subsection (a) and any other penalties allowed by law. This penalty shall be in addition to the penalties set forth in subsection (a) and not subject to the calculations set forth in subsection (a).

(c) Whenever a non-currency instrument is submitted in payment of cannabis business tax and the payment is subsequently returned unpaid by the bank or institution for any reason, it shall be deemed a failure to pay the cannabis business tax, and the taxpayer shall be liable for the tax amount due plus any penalties and interest as provided for in this section, and the actual amount of fees or other charges to the City by the bank or institution for the returned payment plus ten percent (10%).

Sec. 3.18.100. - Refunds and procedures.

(a) No refund shall be made of any cannabis business tax collected pursuant to this chapter, except as provided in this section.

(b) No refund of any cannabis business tax collected pursuant to this chapter shall be made because of the interruption, disruption, discontinuation, dissolution, termination, or other cessation of a business.

(c) Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within six months of the date the tax was originally due or paid, whichever came first.

(d) A claim processing fee in an amount established by resolution of the City Council shall be presented with the written claim for refund filed under this section. This fee shall not be considered a tax and may be adjusted from time to time to fully compensate the City for examination, auditing, and other claim processing costs (including indirect, overhead, and interfund costs calculated in the same manner as could lawfully apply to the City's building permit fees) by resolution of the City Council.

(e) The Tax Administrator, his, her, or their designee or any other City officer or agent charged with the administration of this chapter shall have the right to examine and audit all the books and business records of the claimant at City's offices in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records, or fails to produce such books and business records for examination, within 10 calendar days of a written request by the Tax Administrator to do so. The Tax Administrator may, at his, her, or their discretion, make supplemental written requests of the claimant under the same terms and conditions.

Sec. 3.18.110. - Personal cultivation not taxed.

The provisions of this chapter shall not apply to personal cannabis cultivation or personal use of cannabis, provided those activities are authorized in the State's "Medicinal and Adult Use Cannabis Regulation and Safety Act," as may be amended. This chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and provided that the individual receives no compensation whatsoever related to that personal cultivation or use.

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Sec. 3.18.120. - Administration of the tax.

- (a) It shall be the duty of the Tax Administrator to collect the taxes, penalties, interest, and fees, and perform the duties required by this chapter.
- (b) For purposes of administration and enforcement of this chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules and/or procedures consistent with the purpose, intent, and express terms of this chapter as the Tax Administrator deems necessary to implement or clarify such provisions or aid in enforcement.
- (c) The Tax Administrator may take such administrative actions as needed to administer the cannabis business tax, including but not limited to:
- (1) Receive and record all taxes remitted to the City as provided in this chapter;
 - (2) Maintain records of taxpayer reports and taxes collected pursuant to this chapter;
 - (3) Assess penalties and interest to taxpayers pursuant to this chapter;
 - (4) Determine amounts owed under and enforce collection pursuant to this chapter; and
 - (5) Delegate to, or enter into a contract with, other parties to implement, administer, and/or enforce any of the provisions of this chapter on behalf of the City.

Sec. 3.18.130. - Enforcement - action to collect.

Any taxes, penalties, interest, and/or fees required to be paid under the provisions of this chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this chapter shall be liable in an action brought in the name of the City for the recovery of such debt. The provisions of this chapter shall not be deemed a limitation upon the right of the City to bring any other action including criminal, civil, and equitable actions, based upon the failure to pay taxes, penalties, interest, and/or fees imposed by this chapter, or the failure to comply with any of the provisions of this chapter.

Sec. 3.18.140. - Apportionment.

If a business subject to the cannabis business tax is engaged in business both in and outside Laguna Woods, it is the intent of the City to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in Laguna Woods. To the extent federal or state law requires that any tax due from any person owing a cannabis business tax be apportioned, the person may indicate said apportionment on his, her, or their tax return. The Tax Administrator may promulgate administrative procedures for apportionment as the Tax Administrator finds useful or necessary.

Sec. 3.18.150. - Audit and examination of premises and records.

- (a) For the purpose of ascertaining the amount of cannabis business tax owed or verifying any representations made by any person to the City in support of his, her, their, or its calculation of cannabis business tax owed, the Tax Administrator, upon 10 calendar days written notice, shall have the power to inspect any location where a cannabis business occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, federal and state income tax returns, and other records relating to the gross receipts) of the cannabis business. In conducting such investigation, the Tax Administrator shall have the power to inspect any equipment, including but not limited to computers or point of sale machines, that may contain such records.
- (b) It shall be the duty of every person liable for the collection and payment to the City of any cannabis business tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he, she, they, or it may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect upon 10 calendar days written notice at City's offices.
- (c) Should the Tax Administrator be required to perform an audit of the records of any cannabis business for failure to timely or accurately report cannabis business taxes pursuant to sections 3.18.050 and/or 3.18.060, the entire cost of the audit shall be assessed against the cannabis business (including indirect, overhead, and interfund costs calculated in the same manner as could lawfully apply to the City's building permit fees).
- (d) Failure to maintain records in accordance with subsection (b) above and/or failure to allow the Tax Administrator access to the location, records, and equipment necessary to complete his, her, or their audit within 10 calendar days of service of written notice in accordance with subsection (a) above are each a violation of this chapter punishable by suspension or revocation of the commercial cannabis permit and/or any and all penalties set forth in this chapter.

Sec. 3.18.160. - Other licenses, permits, taxes, fees, or charges.

- (a) Nothing contained in this chapter shall be deemed to repeal, amend, be in lieu of, replace, or in any way affect any requirements for any commercial cannabis permit or any other City license or permit required by, under, or by virtue of any provision of any other chapter of this Code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace, or in any way affect any tax, fee, or other charge imposed, assessed, or required under any other chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other chapter of this Code to any permits, licenses, fees, or charges, or to any schedule of permit or license fees or charges, shall be deemed to refer to the permits, licenses, fees, or charges, or schedule of permit or license fees or charges, provided for in other chapters of this Code.
- (b) The City Council or City Manager may suspend, revoke, or refuse to renew a commercial cannabis permit for any cannabis business that is delinquent in the payment of any cannabis business tax due pursuant to this chapter, that fails to make a payment required by the Tax Administrator pursuant to sections 3.18.050 and/or 3.18.060, or that fails to timely pay all taxes, penalties, interest, and fees owed under this chapter.

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Sec. 3.18.170. - Payment of tax does not authorize unlawful business.

- (a) The payment of a cannabis business tax pursuant to this chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state and local laws.
- (b) No cannabis business tax paid under this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any state or local law.

Sec. 3.18.180. - Deficiency determinations.

If the Tax Administrator is not satisfied that any statement filed as required under this chapter is correct, or that the amount of cannabis business tax is correctly computed, he, she, or they may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his, her, or their possession or that may come into his, her, or their possession within three years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a cannabis business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such cannabis business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 3.18.200.

Sec. 3.18.190. - Failure to report - nonpayment

(a) Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of cannabis business tax owed by a person under this chapter at any time:

- (1) If the person has not filed a complete statement required under the provisions of this chapter;
- (2) If the person has not paid the tax due under the provisions of this chapter;
- (3) If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this chapter; or
- (4) If the Tax Administrator determines that the nonpayment of any tax due under this chapter is due to fraud, misrepresentation, or deceit upon the City.

(b) The notice of assessment shall separately set forth the amount of any cannabis business tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable provision of this chapter and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

Sec. 3.18.200. - Tax assessment - notice requirements.

The notice of assessment shall be served upon the person either by personal delivery, by overnight delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he, she, or they shall register with the Tax Administrator for the purpose of receiving notices provided under this chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purpose of this section, a service by overnight delivery shall be deemed to have occurred one calendar day following deposit with a courier, and service by mail shall be deemed to have occurred three calendar days following deposit in the United States mail.

Sec. 3.18.210. - Tax assessment - hearing and determination.

Within 30 calendar days after the date of service of the notice of assessment, the person may apply in writing to the Tax Administrator for a hearing on the assessment. The application shall include the tax assessment hearing fee in the amount established by resolution of the City Council. This fee is non-refundable based on the outcome of the appeal, shall not be considered a tax, and may be adjusted from time to time to fully compensate the City for hearing preparation, hearing conduct, and other tax assessment hearing-related costs (including indirect, overhead, and interfund costs calculated in the same manner as could lawfully apply to the City's building permit fees) by resolution of the City Council. If application for a hearing before the City and tax assessment hearing fee are not received by the City within the time herein prescribed, the cannabis business tax assessed by the Tax Administrator shall become final and conclusive. Within 30 calendar days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him, her, or them no later than 30 calendar days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five calendar days prior to such hearing. At such hearing, said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. Within 35 calendar days of such hearing, the Tax Administrator shall determine and reassess (if necessary) the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 3.18.200 for service of notice of a tax assessment.

Sec. 3.18.220. - Appeal procedure.

After fully exhausting any tax assessment hearing rights provided in Section 3.18.210, any person owing cannabis business tax aggrieved by any decision of the Tax Administrator with respect to the amount of tax due, or any person owing and aggrieved by the imposition of penalties, interest, or fees under this chapter, or any person aggrieved by any decision of the Tax Administrator, may appeal to the City Council by filing a notice of appeal with the City Clerk within 30 calendar days of the service of the Tax Administrator's determination of the amount due or date of imposition or decision, as applicable. The notice of appeal shall include the appeal fee in the amount established by resolution of the City Council. This fee is non-refundable based on the outcome of the appeal, shall not be considered a tax, and may be adjusted from time to time to



Ballot Measures-T

fully compensate the City for hearing preparation, hearing conduct, and other appeal-related costs (including indirect, overhead, and interfund costs calculated in the same manner as could lawfully apply to the City's building permit fees) by resolution of the City Council. The City Council may establish separate appeal fees to account for differences in costs associated with different subjects of appeal. If notice of appeal and appeal fee are not received by the City within the time herein prescribed, the contested decision of the Tax Administrator shall become final and conclusive. Within 30 calendar days of the receipt of any such notice of appeal, the City Clerk shall cause the matter to be set for hearing before the City Council no later than 30 calendar days after the receipt of the notice of appeal, unless a later date is agreed to by the City Clerk and the person requesting the hearing. Notice of such hearing shall be given by the City Clerk to the person requesting such hearing not later than five calendar days prior to such hearing. At such hearing, said applicant may appear and offer evidence why the contested decision of Tax Administrator should not stand. Within 60 calendar days of such hearing, during which time the City Council may schedule the appeal for further discussion at public meetings and request additional information from any person, the City Council shall make a decision, which shall be final and conclusive. The City Clerk shall give written notice of the City Council's decision to the appellant in the manner prescribed in Section 3.18.200 for service of notice of a tax assessment.

Sec. 3.18.230. - Conviction for violation - taxes not waived.

The conviction and punishment of any person for failure to pay the required cannabis business tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

Sec. 3.18.240. - Severability.

If any provision of this chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

Sec. 3.18.250. - Remedies cumulative.

All remedies and penalties prescribed by this chapter or which are available under any other provision of this Code and any other provision of law or equity are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

Sec. 3.18.260. - Amendment or modification.

This chapter may be amended or modified (but not repealed) by the City Council without a vote of the people. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would expand, extend, or increase the rate of the cannabis business tax. The people of the City of Laguna Woods affirm that the following actions shall not constitute an expansion, extension, or increase of the rate of the cannabis business tax:

- (1) The restoration or adjustment of the rate of the cannabis business tax to a rate that is neither less nor higher than that allowed by this chapter, in those circumstances where, among others, the City Council has previously acted to reduce or increase the rate of the cannabis business tax within the allowed range or is incrementally implementing an increase authorized by this chapter;
- (2) An action that interprets or clarifies (i) the methodology of applying or calculating the cannabis business tax or (ii) any definition applicable to the cannabis business tax, so long as the interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with this chapter;
- (3) The collection of the cannabis business tax even if the City had, for some period of time, failed to collect the cannabis business tax; or
- (4) The adjustment of the rate of the cannabis business tax when preempted by federal or state law, pursuant to Section 3.18.040(e).

SECTION 2. Pursuant to California Constitution Article XIII B, the annual appropriation limit for the City shall be increased by the maximum projected aggregate collection authorized by the levy of the general tax set forth in Section 1 of this Ordinance, in each of the years covered by this Ordinance plus the amount, if any, by which the appropriation limit is decreased by law as a result of the levy of the general tax set forth in Section 1 of this Ordinance.

SECTION 3. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase added by this Ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity of effectiveness of the remaining portions of this Ordinance or any part thereof. The voters of the City of Laguna Woods hereby declare that they would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective.

SECTION 4. Pursuant to California Constitution Article XIII C Section (2)(b) and California Elections Code Section 9217, this Ordinance shall take effect only if approved by a majority of the voters of the City of Laguna Woods at the General Municipal Election on November 8, 2022. If approved, this Ordinance shall take effect 10 calendar days after the City Council has certified the results of the General Municipal Election by resolution.

SECTION 5. The Mayor shall sign this Ordinance.

SECTION 6. The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance to be published or posted as required by law.



Ballot Measures-T

Impartial Analysis City of Laguna Woods Measure T

The City Council of the City of Laguna Woods has placed a measure (“Measure”) on the November 8, 2022 ballot to ask voters to adopt an ordinance that would enact a tax on cannabis businesses if such businesses are ever permitted in Laguna Woods in the future (“Cannabis Business Tax Ordinance”).

Laguna Woods currently prohibits cannabis businesses citywide. This Measure will not determine whether cannabis businesses should be permitted in Laguna Woods. This Measure will not change Laguna Woods’ existing prohibition on cannabis businesses. Permitting cannabis businesses in Laguna Woods would require an amendment to the Laguna Woods Zoning Code.

This is solely a tax measure. Like other local taxes, the California Constitution requires voter approval to impose a tax on cannabis businesses. Absent a declared emergency, the City Council can only submit a city-sponsored tax measure to voters at the general election held in November of even numbered years.

If approved, this Measure would impose a tax on any future cannabis businesses at the higher of the following rates:

- * For retail cannabis businesses — 4% to 10% of gross receipts or \$5 to \$35 per square foot; and
- * For all other cannabis businesses — 1% to 10% of gross receipts or \$1 to \$35 per square foot.

The City Council would select tax rates within these voter-approved ranges. The top of the range for the rates based on square footage would automatically increase each year to account for inflation.

If cannabis businesses are permitted in the future, the proceeds of this tax would go to the Laguna Woods’ general fund to be used for city services, programs, and projects. Because this Measure does not limit the use of tax revenue, State law considers it a “general tax,” not a “special tax” that restricts funds to a specific purpose. The estimated proceeds of this tax are \$750,000 per year, but actual revenues would vary depending on the tax rates the City Council selects and the type and number of cannabis businesses that are permitted. If no cannabis businesses are permitted, the proceeds of this tax will be \$0.

A “Yes” vote is a vote in favor of adopting the tax on cannabis businesses. A “No” vote is a vote against adopting the tax on cannabis businesses. If a simple majority (i.e., more than 50%) of voters vote “Yes,” then this Measure will be approved, and the Cannabis Business Tax Ordinance will be adopted.

Dated: June 6, 2022

s/ Alisha Patterson
City Attorney

The above statement is an impartial analysis of Measure T, the Cannabis Business Tax Ordinance. If you desire a copy of the Ordinance, please call the elections official’s office at (949) 639-0512 and a copy will be mailed at no cost to you.

Ballot Measures-T**Argument in Favor of Measure T**

This proposed tax will apply only to cannabis (marijuana) businesses. It will only take effect if the City Council, after listening to our residents, decides in the future to allow a cannabis business in Laguna Woods. The proposal is not an additional sales tax under state law, but is a city business tax.

This is the first time since our founding in 1999 that the City Council has presented a new tax to the voters. We do it now because we believe enacting this tax is essential to protect our fiscal future from outside influences and special interests. This tax is uniquely designed to meet our particular needs, to cover potential extra costs for audits, inspections, traffic control and law enforcement.

The marijuana lobby has presented its own tax proposal, which of course favors the industry, in many locations. If our own designed tax is not approved, we risk becoming subject to a special-interest proposal, which will not put the interests of our residents first. This City tax is flexible and adjustable, and assures that extra costs that may arise from a cannabis business will not be borne by the taxpayers.

This tax is not a "first step" toward a cannabis business in Laguna Woods. Approving a tax and approving a business are two independent questions. The City could approve a cannabis business without this tax. Or, the voters may approve this tax to protect our future interests, yet there may never be a cannabis business here, so the tax will never go into effect.

We encourage you to approve this tax measure, uniquely crafted for our City and our residents, so we do not risk having a special-interest tax scheme become law in our City.

s/ Cynthia S. Conners
Laguna Woods Mayor Pro Tem

s/ Shari Horne
Laguna Woods Council Member

Rebuttal to Argument in Favor of Measure T

The City Attorney's analysis is based on data provided which does not comport with estimated revenue provided by nearby cities. For example, in the case of Mission Viejo, which is 5.5 times larger than the City of Laguna Woods and far more affluent, using that projection the City of Laguna Woods would need at least three shops to attain the income stated and it is unbelievable three shops are sustainable, let alone capable of each generating the same revenue. Because the numbers provided in the proposed measure are inflated, the benefits are not clear.

Furthermore, there is no documented evidence that any city in Orange County has been forced to accept taxes which favor the marijuana lobby; that is a straw man argument. Cities always have the right to seek voter approval of a tax whenever a dispensary is proposed but until the governor and legislature stabilize the industry it is not possible to accurately predict revenue nor address the illicit market. It is the illicit market that is harming the environment with harmful chemicals and wastefully draining precious water resources.

s/ Carol Moore
City of Laguna Woods Mayor

Ballot Measures-T

Argument Against Measure T

This ballot measure is problematic for it exacerbates the complex marijuana industry pricing problem by seeking revenue based on taxation of cannabis businesses without considering the consequences of the separate cannabis industry components. It is the regressive levies which harm the legal industry because the higher prices of the legal industry bolster the lower-priced illicit-marijuana-market which among other things is harming the environment.

The purpose of legalizing the establishment of marijuana dispensaries was to eradicate the illegal market while allowing access to both business ownership as well as medicinal and recreational products for people that do not have money. However, because the high level of taxation in California impedes proper development of the legal market, the illegal market continues and it is sizeable. This ballot-measure-proposed -taxation would preserve the illicit market while sustaining social inequity. It is minorities that have lost money trying to start and run a marijuana business while corporations as well as the illegal market became winners. Sadly, this ballot measure abets that injustice by increasing costs for both retail and other businesses thereby putting the legal market further out of reach.

Furthermore, the predicted revenue listed in the ballot measure is strikingly unrealistic because the large illegal marketplace never disappeared due to their low-price advantage. Marijuana industry pricing has been volatile since voter approval in 2016, with growers as well as dispensaries facing financial challenge. Cities that prosper from marijuana have lower or non-existent rates for non-retail businesses.

While the governor and the legislature seek to stabilize the cannabis market, this proposal is premature and at odds with stabilization efforts.

s/ Carol Moore
City of Laguna Woods Mayor

Rebuttal to Argument Against Measure T

Why is the City asking for this vote? We would be remiss if at some future time a decision were made to allow a cannabis business to locate within the city, but without having established a voter approved measure to govern that business and protect our City financially.

But why now: The opposition argument above says the "legal" cannabis industry is overtaxed, with adverse social and economic consequences to their enterprises. Therefore, our city should do nothing - just wait and see what the State can work out to help that industry. (In fact, the legal cannabis industry recently supported a very similar measure in Huntington Beach).

The result of a "no" vote: If voters reject this business tax, most certainly the cannabis industry will present its own heavily financed version of a "tax". Rest assured it will be favorably structured for the benefit of that industry and not for the benefit of Laguna Woods residents.

Our brief cannabis history: In November 2020, the City Council proposed an advisory ballot question and a slim majority (225 votes out of 13,000 votes cast) supported allowing a cannabis business to locate in Laguna Woods. Regardless of your opinion on this issue or how you voted then, we two City Council members, one a former Mayor, strongly recommend that you vote "**yes**" on this tax proposition. It protects our City should circumstances ever change requiring its implementation. We cannot not - should not - wait for the State of California to negotiate with the cannabis industry.

s/ Edward H. Tao

s/ Noel Hatch