

CITY OF HUNTINGTON BEACH

Interdepartmental Memo

TO: Jennifer McGrath, City Attorney

FROM: Joan L. Flynn, City Clerk 

DATE: May 30, 2014

SUBJECT: **CITY CLERK'S TRANSMITTAL OF NOTICE OF INTENT TO CIRCULATE PETITION AND REQUEST FOR BALLOT TITLE AND SUMMARY FOR PROPOSED MEASURE ("An Act to Generate Revenue")**

Pursuant to California Elections Code §9203, please return a ballot title and summary of the attached proposed measure within 15 days for the City Clerk's Office to provide to the proponents: Ms. Deborah Loehr and Mr. Ben J. Miles.

JF

Attachments: **Cover Letter**
Notice of Intent to Circulate Petition
Statement by the Proponents of the Initiative
Proponents' Statement of Acknowledgement
Full Text of Proposed Initiative.

c: Honorable Mayor and City Council Members
Fred Wilson, City Manager

May 30, 2014

City Clerk
City Clerk for the City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Via Personal Service

Re: City Initiative - "An Act to Generate Revenue"

Dear Madam Clerk:

This office represents the proponents of a proposed initiative in the City of Huntington Beach. Enclosed are the following documents required to be filed prior to circulating the initiative:

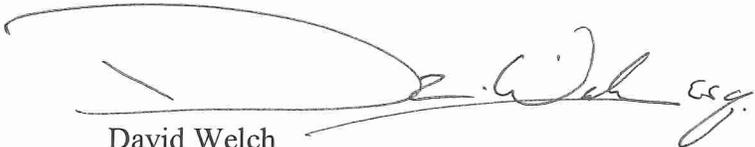
1. Notice of intent to circulate petition;
2. Statement by the proponents of the initiative;
3. Proponents statement of acknowledgement (2);
4. Full text of proposed initiative

Pursuant to Election Code §9203, the proponents hereby request that a ballot title and summary be prepared.

Please do not hesitate to contact me should you have any questions and/or comments relating to this matter.

Respectfully,

D|R Welch Attorneys at Law, A Professional Corporation



David Welch
Attorney for proponents:
Deborah Loehr; and
Ben J. Miles

RECEIVED
2014 MAY 30 PM 3:41
CITY CLERK
CITY OF
HUNTINGTON BEACH

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Huntington Beach for the purpose of submitting to the voters an initiative to impose strict regulations on medical marijuana businesses to protect the health, safety and welfare of the community. A statement of reasons of the proposed actions as contemplated in the petition is as follows:

It is the purpose and intent of this ordinance to have medicinal businesses operate with reasonable regulation that mirror those put forward by The League of California Cities and California Police Chiefs Association in order to regulate the distribution of medical marijuana, which if unregulated threatens the interests of local neighborhoods and dispensaries, as well as negatively impacting those seriously ill residents of Huntington Beach.

There presently are no ordinances in the City of Huntington Beach specifically limiting, regulating or monitoring the location, zoning standards, or other aspects of the locations of medicinal businesses.

By implementing this regulation, the City will strictly regulate the maximum number and operational standards of medicinal businesses in the City of Huntington Beach, while increasing revenue to the City.

The City has a clear interest in regulating medicinal businesses in an orderly manner, and in protecting the public health, safety and welfare of its residents, its businesses, the neighborhoods in which medicinal businesses operate, while ensuring compliance with the law in the Compassionate Use Act and the Medical Marijuana Program Act.

We, the undersigned Proponents of the proposed Initiative and registered voters of the City of Huntington Beach, do hereby submit the above Notice of Intent to Circulate petition:

Deborah Loehr
15281 Columbia Lane
Huntington Beach, CA 92647

Ben J.
Benjamin Miles
~~2901 Via Corbina~~ 9824 continental Dr.
Huntington Beach, CA 92646

Signature: Deborah Loehr

Signature: Ben Miles

Date: 5-26-14

Date: May 29, 2014

RECEIVED
2014 MAY 30 PM 3:11
CITY CLERK
CITY OF
HUNTINGTON BEACH

Statement by Proponents of the Initiative:

"An Act to Generate Revenue"

We, the undersigned registered voters of the City of Huntington Beach, do hereby declare that we are the proponents of an initiative currently entitled "An Act to Generate Revenue" that we intend to qualify for either the nearest special or general election in the City of Huntington Beach.

We also hereby request that the City of Huntington Beach city attorney prepare an Official Title and Summary for the Initiative within the time limits within the City of Huntington Beach Election Code.

We also designate the following person(s) to be our authorized representatives to handle all matters relating to the effort to qualify this initiative, including but not limited to, picking up and filing all related documents, handling any communications, and performing any other tasks related to this matter.

Authorized Representatives:

David Welch
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

Tristan Brown
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

Marina Turovsky
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

Benjamin McFadden
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

Elizabeth Cardona
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

D|R Welch Attorneys at Law
523 W. 6th Street, Suite 716
Los Angeles, California 90014
Phone (213)596-9008

Proponents of the Initiative:

RECEIVED
2014 MAY 30 PM 3:42
CITY CLERK
CITY OF
HUNTINGTON BEACH

1. Deborah Loehr
15281 Columbia Lane
Huntington Beach, CA 92647

Signature: Deborah Loehr

Date: 5-26-14

2. ^{Ben J.} Benjamin Miles
~~2901 Via Corbina~~ 9824 Continental Dr
Huntington Beach, CA 92627,

Signature: Ben J. Miles

Date: May 29, 2014

PROPONENT STATEMENT OF ACKNOWLEDGEMENT

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

Deborah Loehr

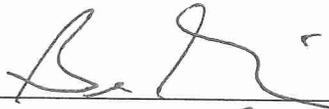
(Signature of Proponent Deborah Loehr)

Dated this 26 day of May, 2014

RECEIVED
2014 MAY 30 PM 3:42
CITY CLERK
CITY OF
HUNTINGTON BEACH

PROPONENT STATEMENT OF ACKNOWLEDGEMENT

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



Ben J.
(Signature of Proponent Benjamin Miles)

Dated this 29 day of May, 2014

RECEIVED
2014 MAY 30 PM 3:42
CITY CLERK
CITY OF
HUNTINGTON BEACH

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF HUNTINGTON BEACH
AMENDING THE THE HUNTINGTON BEACH ZONING CODE AND MUNICIPAL CODE**

Committee of proponents, who are registered voters of the City of Huntington Beach, sponsoring the petition:

Deborah Loehr

Benjamin James Miles

TEXT OF PROPOSED MEASURE:

“AN ACT TO GENERATE REVENUE”

WHEREAS, The League of California Cities and California Chief of Polices Association have authored statewide legislation, presented by veteran State Senator Lou Correa to provide a clear road map for reasonable statewide implementation of Proposition 215 and the Medical Marijuana Program Act of 2004 in California;

WHEREAS, legislation regulating the medical marijuana industry is supported by the Association for Los Angeles Deputy Sheriffs; Association of Orange County Deputy Sheriffs; California Fraternal Order of Police; International Faith Based Coalition; Long Beach Police Officers Association; Los Angeles County Professional Peace Officers Association; Los Angeles Police Protective League; Riverside Sheriffs Association and Santa Ana Police Officers Association;

WHEREAS, it is in the interest of the citizens of Huntington Beach to have commercial medical marijuana collectives or cooperatives operate with reasonable regulation that mirror those put forward by The League of California Cities and California Chief of Polices Association in order to regulate the distribution of medical marijuana, which if unregulated threatens the interests of local neighborhoods and dispensaries, as well as negatively impacting those seriously ill residents of the City;

WHEREAS, the City has a substantial and clear interest in ensuring that medical marijuana is distributed in an orderly manner, in protecting the public health, safety and welfare of its residents, its dispensaries, the neighborhoods in which medical marijuana collectives operate, while ensuring compassionate access by seriously ill residents to medical marijuana in accordance with the CUA and the MMPA;

WHEREAS, the City seeks to create a business tax on Medicinal Businesses at a rate of \$50 per \$1,000 of gross receipts, which will help to fund necessary general municipal services, which may include but is not limited to, code enforcement, building inspections, police protection and crime suppression services, fire prevention and suppression services, which will facilitate the purposes of this law and which will fund necessary services as determined by the City Council.

NOW, THEREFORE,

THE PEOPLE OF THE CITY OF HUNTINGTON BEACH HEREBY ORDAIN AS
FOLLOWS:

Section 1. Code Amendment. Chapter 3.24 in Title 3 of the Huntington Beach Municipal Code is hereby amended to include a Section 3.24.420 which shall read as follows:

- (a) Every person engaged in operating or otherwise conducting a business where marijuana is cultivated, distributed or transferred pursuant to Title 5, Chapter 5.100 of the Huntington Beach Municipal code shall pay annual tax proportionate to five (5) percent of gross receipts earned within the taxing jurisdiction.
- (b) The City Council may impose the tax authorized by this section at a lower rate and may establish exemptions, incentives, or other reductions as otherwise allowed by California law. No action by the Council under this paragraph shall prevent it from later increasing the tax, to no more than five per cent, or removing any exemption, incentive, or reduction and restoring the maximum tax specified in this section.

Section 2. Code Amendment. Section 211.04 of Chapter 211 of Title 21 of the Huntington Beach Zoning Code, is hereby amended to include medicinal business as a permitted use in General Industrial (IG) and Light Industrial (IL) zones.

Section 3. Code Amendment. Section 212.04 of Chapter 212 of title 21 of the Huntington Beach Zoning Code, is hereby amended to include medicinal business as a permitted use in Office Commercial District (CO) and General Commercial District (CG) District.

Section 4. Code Amendment. TITLE 5 is hereby amended to include TITLE 5, Chapter 5.100, henceforth entitled “Medicinal Businesses” and is hereby amended in its entirety to read as follows:

Sec. 5.100.010. Purpose.

The people of the City of HUNTINGTON BEACH hereby declares that the purpose of the regulations in this chapter is to provide a uniform and enforceable set of rules for the operation of medical marijuana dispensaries, in compliance with state law and future state-wide regulation, to prevent the proliferation of commercial medical marijuana collectives, to tax the distribution of medical marijuana as well as to protect the public health, safety and welfare of residents and businesses.

Sec. 5.100.020. Definitions.

The following terms and phrases, whenever used in this section, shall be construed as defined in this section:

- (a) "Medicinal business" or "Business" means the following: an unincorporated or incorporated association of qualified patients and/or primary caregivers and/or persons with identification cards, who provide money and in-kind contributions, reimbursements, and reasonable compensation towards the aforementioned entity's actual expenses for activities including, but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, providing and/or retail sales of medical marijuana. A medicinal business may also provide products, services and assistance to qualified patients or persons with a medical marijuana identification card (as set forth in the MMPA), the primary caregiver of such persons. Medicinal businesses may assist with the acquisition of skills necessary to cultivate or provide marijuana for medical purposes in compliance with state law. A medicinal business includes any facility, building, structure or location, whether permanent, or temporary, where marijuana is made available, sold, given, distributed, or otherwise provided in accordance with Health and Safety Code section 11362.5 *et seq.* A medicinal business includes medical marijuana "cooperatives" and "collectives" as well as organizations that offer delivery services.
- (b) "Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.
- (c) "Live Scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.
- (d) "Live Scan application" means a form developed by the City Clerk to request Live Scan services and to contain information relevant to the Live Scan process.
- (e) "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.
- (f) "Establishment." Includes any of the following:
 - a. The opening or commencement of any such business as a new business;
 - b. The conversion of an existing business, whether or not a Medicinal business, to any of the Medicinal businesses defined herein;
 - c. The addition of any of the Medicinal businesses defined herein to any other existing Medicinal business; or
 - d. The relocation of any such Medicinal business.

- (g) "Marijuana" shall be construed as defined in California Health and Safety Code Section 11018 and further shall specifically include any product that contains marijuana or a derivative of marijuana.
- (h) "Cultivation" means the act of planting, cultivating, harvesting, drying, or processing any marijuana or any part thereof.
- (i) "Operator" means any person with responsibility for the establishment, organization, registration, supervision, or oversight of a medicinal business, including but not limited to any person who performs the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, or treasurer of the Medicinal business.
- (j) "Applicant." A person who is required to file an application for a license under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a Medicinal business or an operator of a medicinal business .
- (k) "Licensee." The person or entity to which a Medicinal business license or Medicinal business operator's license is issued.
- (l) "Director of Planning." Means the Planning Director (herein "Director") or his or her designee.
- (m) "Chief of Police." The Chief of Police of the City of Huntington Beach or the authorized representatives thereof.
- (n) "Premises" means the space in any buildings of a medicinal business together with the spaces within any structures, yards, open spaces, lot width, and lot area at a location that is occupied or used in the operation of the medicinal business.
- (o) "Person" means any Business, individual, partnership, co-partnership, firm, association, joint stock company, and corporation, limited.
- (p) "Structure" means anything constructed or erected which is supported directly or indirectly on the ground, but not including any vehicle.
- (q) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, including but not limited to a device moved exclusively by human power.
- (r) The following words or phrases when used in this Section shall be construed as defined in California Health and Safety Code Sections 1746, 11362.5, 11362.7 and 11834.02
 - a. "Alcoholism or drug abuse recovery or treatment facility";
 - b. "Hospice";
 - c. "Identification card";
 - d. "Person with an identification card"
 - e. "Primary Caregiver"; and
 - f. "Qualified Patient";

Sec. 5.100.030. Permit and license required.

- A. It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medicinal business, or to participate as an employee, contractor, agent, volunteer, or in any other manner or capacity in any medicinal business in the city of Huntington Beach unless permitted pursuant to Chapter 5.100 of Title 5 of the Huntington Beach Municipal Code and issued a license pursuant to Chapter 5.08.

- a. The prohibition in this section includes renting, leasing, or otherwise permitting medicinal business to occupy or use a location, vehicle, or other mode of transportation.

B. This chapter shall not apply to:

- (a) A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250);
- (b) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01);
- (c) a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569);
- (d) a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), all of Division 2 of the California Health and Safety Code where:
 - i. a qualified patient or person with an identification card receives medical care or support services, or both, from the clinic facility, hospice, or home health agency, and
 - ii. the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card, or
- (e) Any vehicle during only that time reasonably required for its use by:
 - i. A qualified patient or person with an identification card to transport marijuana for his or her personal medical use, or
 - ii. A primary caregiver to transport, distribute, deliver, or give away marijuana to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, of the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.76.

Sec. 5.100.040. Zoning Requirements.

In addition to the requirements of this chapter, all medicinal businesses subject to this chapter shall be established only in the appropriate Commercial and Industrial Districts as specified in Sections 211.04 and 212.04 of Chapter 211 of Title 21 of the city of Huntington Beach Zoning Code.

Sec. 5.100.050. License required for each location; display of license.

- a) The Director of Finance shall issue a medicinal business license to all organizations which receive a medicinal business permit from the Chief of Police.

- b) A medicinal business license is required for each location within the boundaries of the city of Huntington Beach. Every business shall display its medicinal business license prominently in an area open to the public at each such location at all times when the location is open for business.

Sec. 5.100.060. Application for medicinal business permit.

- (a) An applicant requesting issuance or renewal of a medicinal business license shall file a written, signed and verified application or renewal application in a form provided by the Chief of Police. Each application shall be accompanied by a non-refundable fee for filing or renewal in an amount determined by resolution of the city council, which fees will be used to defray the costs of investigation, inspection and processing of such application. Such fee shall not exceed the reasonable cost of investigation, inspection and processing of such application. License fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter or title of the city of Huntington Beach Municipal Code.
- (b) An application for a medicinal business license shall contain the following information:
 - 1. The applicant shall be either a corporation or a statutory agricultural or consumer cooperative incorporated in the state of California.
 - 2. The applicants complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process.
 - 3. If the applicant intends to operate the medicinal business under a name other than that of the applicant, the applicant shall file the fictitious name of the medicinal business and show proof of registration of the fictitious name at the time it submits its application.
 - 4. A description of the type of medicinal business for which the license is requested and the proposed address where the medicinal business will operate, plus the names and addresses of the owners and lessors of the medicinal business site.
 - 5. The address to which notice of action on the application is to be mailed.
 - 6. The names of all operators who will manage the distribution of marijuana at the medicinal business or cultivate marijuana on behalf of the medicinal business.
 - i. The medicinal business shall make available to the Chief of Police the names of each person who manages the dispensing of marijuana at the medicinal business together with a successful Live Scan background check of each such person.
 - 1. A unsuccessful or failed Live Scan is any Live Scan that shows a felony conviction having occurred within the past 10 years and/or shows that the manager is currently on parole or probation for the sale or distribution of a controlled substance;
 - 7. A certificate and straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the medicinal business, and: (1) the property line of any other medicinal business

within one thousand (1,000) feet of the property line of the applicant medicinal business and any private or public school; and (2) the property lines of, public park, within one six hundred (600) feet of the property line of the medicinal business; and the property lines of any residential zone which is abutting or across the street from a lot which the medicinal business for which the license is requested.

- (b) If the Chief of Police determines that the applicant has completed the application improperly, the Chief of Police shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Chief of Police to act on the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is granted an extension of time.
- (c) The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a medicinal business license.
- (d) If the Chief of Police determines that the applicant has completed the application improperly, the Chief of Police shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the Chief of Police to act on the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is granted an extension of time.
- (e) The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a medicinal business license.

Sec. 5.100.070. Investigation and action on application.

- (a) Upon receipt of a completed application and payment of the application and license fees, the Chief of Police shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued a medicinal business license.
- (b) Within thirty (30) days of receipt of the completed application, the Chief of Police shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:
 - 1. The Chief of Police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - 2. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
 - 3. If the application is granted, the Chief of Police shall attach to the application approval to be submitted to the Finance Department to issue a medical business license.
 - 4. The application as granted or denied and the license, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
 - 5. The Chief of Police shall grant the application and forward the approval to the Finance Department to issue the medicinal business license upon findings that the

proposed business meets the zoning and locational criteria of this chapter; and that the applicant has met all of the development and performance standards and operational requirements of section 5.100.130(f) of this chapter, unless the application is denied for one (1) or more of the reasons set forth in section 5.100.080.

- (c) If the Chief of Police neither grants the application within thirty (30) days after it is stamped as received, the application shall be forwarded to the city Finance Department for the issuance of a medicinal business license.
- (d) The Finance Department shall issue no more than four (4) medicinal business licenses. If the number of issued medicinal business licenses fall below four (4), then the City shall issue additional medicinal business licenses pursuant to the terms of this Chapter.
 - i. The City Council shall have the discretion to increase, but not decrease, the number of medicinal business licenses issued by the Finance Department pursuant to the terms of this Chapter.
- (e) Medicinal Business priority review
 - 1. Beginning on the date that is thirty (30) days after the effective date of this ordinance, until the date that is forty-five (45) days after the effective date of this ordinance, an applicant who meets the following requirements may submit an application for priority review. The applicant requirements for priority review are as follows:
 - i. The applicant is an active California Non-profit mutual benefit corporation or non-profit agricultural cooperative or non-profit consumer cooperative, that was incorporated prior to May 29, 2014;
 - ii. The applicant has listed with the secretary of state a principal place of business in the City of Huntington Beach;
 - iii. The applicant has been issued or has applied for a City of Huntington Beach business license, issued in the name of the entity, with a standard industrial classification code of 8748, and the submissions of the application or issuance of license occurred prior to May 29, 2014;
 - iv. The applicant, or an officer or director of the applicant, maintains a lease or rental agreement or virtual office client service agreement in the City of Huntington Beach with a possession or start date prior to May 29, 2014;
 - v. The applicant has been issued or has applied for a California Department of Food and Agriculture License to sell nursery stock prior to May 29, 2014;
 - vi. and the applicant a California re-sellers permit issued in the name of the entity at its principal place of business in the City of Huntington Beach, prior to May 29, 2014.
 - 2. After the forty-fifth (45) day which follows the effective date of this ordinance, the application process is open to any and all applicants.

Sec. 5.100.080. Denial of application for medicinal business license.

- (a) The Chief of Police shall deny the application for only the following reasons:

1. That the building, structure, equipment and location used by the business for which a license is required herein do not comply with the requirements and standards set for sec. 5.100.130(f).
2. That the applicant, his or her employee, agent, partner, director, officer, stockholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for a license or in any report or record required to be filed with the Chief of Police or other department of the city.
3. That the applicant has had any type of medicinal business license revoked by any public entity within two (2) years of the date of the application.
4. Within ten (10) years immediately preceding the date of the filing of the application for a license under this chapter, the director or officer of applicant has been convicted of a felony.
5. That on the date that the business for which a license is required herein commences, and thereafter, there will be no responsible adult on the premises to act as manager at all times during which the business is open.
6. The required application fees have not been paid.
7. The maximum number of licenses under this chapter for medicinal businesses has been issued.

Sec. 5.100.090. Medicinal business operator permit.

- (a) No person shall engage in or participate as an operator of a medicinal business, without a valid medicinal business operator permit issued by the city. All persons who have been issued a medicinal business operator shall promptly supplement the information provided as part of the application for the medicinal business permit required by section 5.100.060(b), with the names of all operators required to obtain a medicinal business operator permit, within thirty (30) days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the medicinal business license.
- (b) The Chief of Police shall grant, deny and renew medicinal business operator permits.
- (c) The application for an operator permit shall be made on a form provided by the Chief of Police. An original and two (2) copies of the completed and sworn license application shall be filed with the Chief of Police.
- (d) The completed application shall contain the following information and be accompanied by the following documents:
 1. The applicant's legal name and any other names (including aliases) used by the applicant;
 2. Age, date and place of birth;
 3. Height, weight, hair and eye color;
 4. Present residence address and telephone number;
 5. Whether the applicant has ever been convicted of felony within ten years of the application date;
 6. Proof of a Live Scan background check for all felony convictions within ten (10) years of the application;
 7. State driver's license or identification number;

8. Satisfactory written proof that the applicant is at least twenty-one (21) years of age;
9. The applicant's fingerprints on a form provided by the Chief of Police, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
10. If the application is made for the purpose of renewing a license, the applicant shall attach a copy of the license to be renewed.
11. The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the city council.
12. Upon receipt of an application and payment of the application fees, the Chief of Police shall immediately stamp the application as received and promptly investigate the application.
13. If the Chief of Police determines that the applicant has completed the application improperly, the Chief of Police shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the city manager to act on the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is granted an extension of time.

Sec. 5.100.100. Investigation and action on application for medicinal business operator permit.

- (a) Within fifteen (15) days after receipt of the properly completed application, the Chief of Police shall grant or deny the application and so notify the applicant as follows:
 - a. The Chief of Police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - b. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
 - c. If the application is granted, the Chief of Police shall attach to the application a medicinal business operator permit.
 - d. The application as granted or denied and the license, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.
 - e. The Chief of Police shall grant the application and issue the license unless the application is denied for one (1) or more of the reasons set forth in subsection 5.100.100(f) of this section.
 - f. The Chief of Police shall deny the application for any of the following reasons:
 - i. The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license or in any report or document required to be filed with the application;
 - ii. The applicant is under twenty-one (21) years of age;
 - iii. The applicant has been convicted of any felony within the last ten (10) years. A license may be issued to any person convicted of a felony if the conviction occurred more than ten (10) years prior to the date of the application.

- g. Each medicinal business operator permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Chief of Police a written request for renewal, accompanied by the application fee and a copy of the license to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the license. When made less than thirty (30) days before the expiration date, the expiration of the license will not be stayed. Applications for renewal shall be acted on as provided herein for applications for licenses.
- h. Should the Chief of Police not act within the time period provided under this section, Chief of Police shall then grant the application no less than five (days) following the expiration of time required subsection 5.100.100(a).

Sec. 5.100.110. Suspension or revocation of medicinal business licenses and medicinal business operator permits.

A Medicinal business license or medicinal business operator permit may be suspended or revoked in accordance with the procedures and standards of this section.

- (a) On determining that grounds for license revocation exist, the Chief of Police shall furnish written notice of the proposed suspension or revocation to the licensee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed; postage prepaid, addressed to the last known address of the licensee, or shall be delivered to the licensee personally, at least ten (10) days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Chief of Police, but at a minimum shall include the following:
 - 1. All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. The Chief of Police's decision may be appealed in accordance with sec. 5.100.120 the Huntington Beach Municipal Code.
- (b) A licensee or permit may be subject to suspension or revocation of his/her license or permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the licensee, or an employee, agent, partner, director, stockholder, or manager of a medicinal business :
 - 1. The licensee or permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a license, or in any report or record required to be filed with the City.
 - 2. The licensee or permittee or employee, agent, partner, director, stockholder, or manager of a medicinal business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the medicinal business, or in the case of a medicinal

business operator, the licensee has engaged in one (1) of the activities described below while on the premises of a Medicinal business :

- i. Any act of unlawful distribution of marijuana;
 - ii. Any conduct prohibited by this chapter;
 - iii. Failure to abide by any disciplinary action previously imposed by an appropriate city official.
- (c) After holding the hearing in accordance with the provisions of this section, if the Chief of Police finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Chief of Police shall impose one (1) of the following:
1. A warning;
 2. Suspension of the license for a specified period not to exceed six (6) months; or
 3. Revocation of the license.
 - i. Revocation of the license shall issue only after two earlier determinations of violation.

Sec. 5.100.120. Appeal of denial, suspension or revocation.

- (a) After denial of an application for a medicinal business license or a medicinal business operator permit, or after denial of renewal of a permit, or suspension or revocation of a license or permit, the applicant or person to whom the license was granted may seek review of such administrative action by the city council in accordance with the provisions of this section.
- (b) A notice of appeal must be filed with the Chief of Police within thirty (30) days of the issuance of the Chief of Police determination for denial, suspension or revocation of a medicinal business permit or medicinal business operator permit.
- (c) The City Clerk shall schedule a hearing to be held within 15 days after the filing of the notice of appeal.
- (d) Notice of the date, time and place of the hearing shall be mailed, postage prepaid, at least 10 days prior thereto to the permitted at the address given in the notice of appeal, or if none is provided, to the address set forth in the permit application.
- (e) The City Council may grant or deny a continuance; may dissolve stays of pending orders of denial, suspension or revocation or of pending orders of denial, suspension or revocation; and may appoint outside hearing officers.
- (f) The City Council, or an outside hearing office appointed by the City Council, shall determine, after consideration of all evidence presented, whether a permit should be issued, reinstated, suspended or revoked. The decision of the City Council shall be final.
- (g) Any proceeding to appeal such decision to the city council shall be filed within seven (7) days of such decision. If the denial, suspension or revocation is affirmed on review, the applicant, licensee may seek prompt judicial review of such administrative action pursuant to California Code of Civil Procedure section 1094.5. The city shall make all reasonable efforts to expedite judicial review, if sought by the licensee or permittee.

Sec. 5.100.130. Medicinal business operational standards.

The following development and performance standards shall be satisfied by a medicinal business and included in any approved medicinal business license:

- (a) No medicinal business shall be operated in any manner that permits the observation of any marijuana from outside the location.
- (b) Parking lot lighting shall be provided to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of patrons and employees and reducing the incidents of vandalism and theft. The lighting shall provide a level of illumination not less than one (1) foot-candle, measured at the surface of the pavement, at all areas of the parking lot. The lighting shall be shown on the required plot plans and shall be reviewed and approved by the development services department.
- (c) A medicinal business shall be open or operating for business only between the hours of 8:00 a.m. and 10:00 p.m. on any particular day.
- (d) No person under the age of eighteen (18) years shall be permitted within the premises at any time.
- (e) The medicinal business shall possess a valid and current State Board of Equalization seller's permit;
- (f) The medicinal business shall not be located within the following feet of the enumerated sensitive uses:
 - 1. 1000 foot radius of a "school" as defined under Health and Safety Code 11362.768 (h);
 - 2. 600 foot radius of a public park, public library or licensed child care facility;
 - 3. 1000 foot radius of another registered Medicinal business;
 - 4. The distances above should be determined by a straight horizontal line from the property line of the medicinal business and the property line of the sensitive use.
- (g) Medicinal Businesses shall not allow alcohol to be purchased or consumed at the premises or in any area of the location used for parking any vehicle;
- (h) Medicinal Businesses shall only be located in a commercial zoned property or industrial zoned property. Medicinal business shall not be located on property lot abutting or across the street from a lot which is zoned for residential use.

Sec. 5.100.140. Violations/Penalties.

With the exception of any violation of this chapter, any person, whether as principal, employee, agent, partner, director, officer, stockholder, or trustee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and any conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Notwithstanding any violation under this chapter, any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

Sec. 5.100.150. Public Nuisance.

In addition to the penalties set forth above, any person which operates in violation of this chapter or any provision thereof is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person who violates this chapter.

Sec. 5.100.160. Statewide Regulation. This ordinance, and the provisions herein, shall be read consistent with any statewide regulation of medical marijuana that is promulgated by the legislature or by voter approval in the future. In the event Statewide Regulation is passed pursuant to the decriminalization or legalization, for recreational use, of marijuana, this ordinance shall govern the conduct of those business allowed to distribute marijuana under such provisions.

Section 5. Amendment and Repeal.

The provisions of the Huntington Beach municipal code added by, amended by, or contained in this initiative measure may be amended to further its purposes by ordinance passed by a majority vote of the Council and approved by the Mayor. The provisions of the Huntington Beach municipal code added by, amended by, or contained in this initiative measure shall not be repealed, except by an ordinance adopted either by petition or by the Council at its own instance and adopted by a vote of the electors.

Section 6. Severability.

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the city of Huntington Beach hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 7. Effective Date.

The City Clerk shall certify as to the passage and adoption of this Ordinance. This ordinance shall take effect ten (10) days following the date on which the City Council of the city of Huntington Beach declares that this Ordinance was adopted by a majority of the voters voting on the measure at the soonest special or general election.

Section 8. Majority Approval; Effective Date. This ordinance shall be effective only if approved by a majority of voters and shall go into effect immediately.

Section 9. Competing Measure.

Competing Measures. In the event that this measure and another measure or measures relating to the taxation and regulation of medical marijuana shall appear on the same ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other relating to the taxation and regulation of medical marijuana shall be null and void.

Section 10. Special or General election.

This initiative Measure shall be set for a special or regular election at the earliest time allowed by law.