



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: December 14, 2015

FROM: CITY ATTORNEY

SUBJECT:

AN ORDINANCE OF THE CITY OF PASADENA, CALIFORNIA ADDING CHAPTER 8.77 TO THE PASADENA MUNICIPAL CODE PROHIBITING COMMERCIAL MARIJUANA ACTIVITY.

TITLE OF PROPOSED ORDINANCE

AN ORDINANCE OF THE CITY OF PASADENA, CALIFORNIA ADDING CHAPTER 8.77 TO THE PASADENA MUNICIPAL CODE PROHIBITING COMMERCIAL MARIJUANA ACTIVITY

PURPOSE OF ORDINANCE

At its meeting on November 23, 2015, the City Council approved a Staff Report calling for Municipal Code amendments to prohibit cultivation and delivery of medical marijuana in the City. This Ordinance, if adopted, will make the changes to the Municipal Code called for in the November 23, 2015 Staff Report.

REASON WHY LEGISLATION IS NEEDED

Amendments to Chapter 8 of the Municipal Code can only be done by adoption of an ordinance. Adding Chapter 8.77 to the Pasadena Municipal Code will allow the City to exercise local control over medical marijuana cultivation and delivery.

On October 9, 2015, Governor Brown signed a series of bills addressing local control over cultivation and delivery of medical marijuana in the State (collectively known as the Medical

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Marijuana Regulation and Safety Act). AB 243 established a regulatory and licensing structure for medical marijuana cultivation under the State Department of Food and Agriculture. It prohibits the cultivation of medical marijuana without first obtaining both: (1) a local license, permit, or entitlement for use and, (2) a state license. A person may not apply for a state license without first receiving a local license, permit, or other entitlement for use. Therefore, a person cannot submit an application for a state license if the proposed cultivation of medical marijuana would violate provisions of a local ordinance or regulation.

The Pasadena Zoning Code operates under the principles of “permissive zoning” where any land use not enumerated in the Municipal Code is presumptively prohibited. Under AB 243, any “permissive zoning” city that does not have an ordinance regulating or prohibiting cultivation of medical marijuana effective by March 1, 2016 will lose its authority to regulate or ban cultivation within its city limits. The State will then become the sole licensing authority for the foreseeable future.

AB 266 established a dual licensing structure requiring a state license and a local license or permit for the delivery of medical marijuana. Pursuant to AB 266, the delivery of medical marijuana can only be made in a city that does not explicitly prohibit it by local ordinance. As with AB 243, unless a local jurisdiction enacts an ordinance affirmatively prohibiting delivery of medical marijuana, once the State implements a state licensing structure for such deliveries, a local jurisdiction will forever forfeit its ability to regulate in this arena. The State has not yet set a firm deadline to enact local controls over the delivery of medical marijuana. Therefore if the City Council wishes to continue exercising local control over the cultivation and delivery of medical marijuana in the City, an ordinance prohibiting such must be enacted.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

Adoption of the ordinance is anticipated to have an initial increase in work load for the Pasadena Police Department and the Code Compliance Section of the Planning and Development Department, as they enforce the new regulations and educate local business owners.

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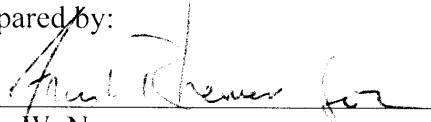
FISCAL IMPACT

There is no anticipated fiscal impact as a result of this action and will not have any indirect or support cost requirements.

Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


John W. Nam

Deputy City Attorney

Concurrence:


Michael J. Beck

City Manager