

# Agenda Report

November 23, 2015

**TO:** Honorable Mayor and City Council

**THROUGH:** Public Safety Committee (November 16, 2015)

**FROM:** City Manager's Office

**SUBJECT: MUNICIPAL CODE AMENDMENTS: LOCAL REGULATION OF MEDICAL MARIJUANA CULTIVATION AND DELIVERY**

## **RECOMMENDATION:**

It is recommended that the City Council take the following actions:

1. Find that the proposed Pasadena Municipal Code Amendments are exempt from environmental review under Section 15061(b)(3) (general rule) of the California Environmental Quality Act ("CEQA");
2. Direct the City Attorney to prepare and return with an ordinance within 30 days adding new sections to Chapter 8 of the Pasadena Municipal Code that prohibit the cultivation and delivery of medical marijuana in the City.

## **BACKGROUND:**

On October 9, 2015, Governor Brown signed a series of bills addressing local control over cultivation and delivery of medical marijuana in the State. These bills are collectively known as the Medical Marijuana Regulation and Safety Act ("MMRSA").

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 other 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. Thus, a person may not 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 the authority to regulate or ban cultivation with 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 by a medical marijuana dispensary 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 forfeit forever its ability to regulate in this arena. The State has not set a firm deadline for local jurisdictions to enact local controls or authority over the delivery of medical marijuana. Consequently, if the City Council wishes to continue exercising local authority and control over the cultivation and delivery of medical marijuana in the City, an ordinance prohibiting such must be put in place.

In recent years, attitudes regarding the medical and even the recreational use of marijuana have evolved. Accordingly, either the current or a future City Council may wish to consider what level of regulation makes sense for Pasadena. However, in order to preserve this right to local control and avoid the State becoming the sole licensing authority, the City Council must take action prior to the March 1 deadline imposed by the State legislation AB243. Even though AB266 does not set a specific deadline, staff recommends taking action at this same time.

#### **COUNCIL POLICY CONSIDERATION:**

The proposed actions would advance the City Council Strategic Planning Goals, including ensuring public safety.

#### **ENVIRONMENTAL ANALYSIS:**

These Municipal Code amendments have been determined to be exempt from environmental review pursuant to California Environmental Quality Act (“CEQA”), State CEQA Guidelines Section 15061(b)(3). This section specifically applies to an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Amendments proposed herein pertain only to authorizing the City to prohibit the cultivation and delivery of medical marijuana in the City. No potentially significant effect will arise from such prohibitions, and therefore no further environmental review is necessary.

**FISCAL IMPACT:**

There is no fiscal impact as a result of this action and will not have any indirect or support cost requirements. There is no anticipated impact to other operational programs or capital projects as a result of this action.

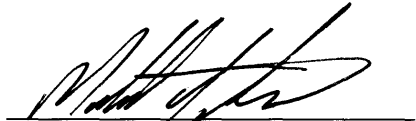
Respectfully submitted,



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STEVE MERMELL  
Assistant City Manager

Approved by:



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MICHAEL J. BECK  
City Manager