

Agenda Report

May 15, 2017

TO: Honorable Mayor and City Council

FROM: Planning and Community Development Department and
Water and Power Department

**SUBJECT: SUSPENSION OF CITY UTILITY SERVICES FOR VIOLATION OF
SPECIFIED SECTIONS OF THE PASADENA MUNICIPAL CODE**

RECOMMENDATION:

It is recommended that the City Council:

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"); and
2. Conduct first reading of an ordinance adding new provisions to the Pasadena Municipal Code that permit electrical and water utility suspensions for violation of certain sections of the Pasadena Municipal Code.

BACKGROUND

The City of Pasadena has historically prohibited all marijuana related activities. Prohibition is accomplished through authority of the Zoning Code. Pasadena's Zoning Code is a "permissive zoning" system which allows only those uses as specifically articulated and prohibits all other uses. Since 2005, the City has specifically banned medical marijuana dispensaries and in 2015, Chapter 8 of the PMC was amended to add definitions and to prohibit commercial cannabis activities, including operating medical marijuana dispensaries and cultivation and delivery of medical marijuana within the City of Pasadena.

The proposed amendment to allow for the suspension of City utilities in specific instances is an outgrowth of the City's desire to identify and employ alternate enforcement tools suitable for resolving Municipal Code violations. The need for expanded compliance options has been exemplified in the City's ongoing efforts to resolve noncompliant land use issues, particularly illegal marijuana dispensaries.

On November 8, 2016, California voters approved Proposition 64, known as the Control, Regulate and Tax Adult Use of Marijuana Act (“Adult Use of Marijuana Act,” or “AUMA”). This initiative legalized the recreational use of nonmedical marijuana for individuals 21 years of age or older and permits small-scale personal cultivation throughout the State. The initiative also established regulatory and taxing schemes for nonmedical marijuana activities.

With the passage of Proposition 64, local agencies, including Pasadena, are in a position requiring action to either prohibit or regulate commercial nonmedical marijuana activities, and to permit or reasonably regulate personal cultivation of marijuana. The State departments responsible for creating the licensing system for commercial activities are expected to be ready to issue permits by January 2018. Accordingly, the City has already begun the process of considering policies and regulations for commercial marijuana activities.

ANALYSIS

Despite Pasadena’s longstanding land use regulations prohibiting the operation of marijuana dispensaries, such illegal land uses have persisted with as many as a dozen dispensaries illegally operating throughout the various commercial districts in the City. Staff from the City Attorney’s office and the Planning and Community Development Department have collaborated to enforce the City’s ban. Those efforts have met with some success and of the approximate one dozen dispensaries open in Pasadena, three have recently closed. However those reductions have been reversed by the recent appearance of three new illegal dispensaries.

The City of Anaheim faced the same dilemma and as outlined in a February 2015 report to the Anaheim City Council, at one time had 179 marijuana dispensaries. As reflected in that report, 161 of the dispensaries were closed and 18 remained open, operating illegally. In an effort to close illegal dispensaries Anaheim City staff began disconnecting utilities at the remaining locations. Such utility suspension provisions are authorized under Anaheim Municipal Code section 10.16.190 which states:

“The City may discontinue water or electric service to any premises which is being used in violation of any ordinance of the City or of any law of the State of California or of the United States and shall not be required to reestablish such service until the unlawful use ceases and the fee for reconnection has been paid.”

Similarly, the City of Los Angeles’ recent ballot measure regarding the enforcement, taxation and regulation of cannabis contained a similar proposed measure that authorized the Department of Water and Power to discontinue utilities to cannabis businesses operating without a license.

Existing PWP Utility Suspension Provision and Hearing Process

The Pasadena Municipal Code already provides for utility suspension for violation of certain sections of Chapter 13. Specifically Chapter 13.08 of the PMC is entitled "Energy Use and Conservation" and contains various lighting and power consumption regulations and section 13.08.120 (Civil penalty for non-compliance) provides that:

"Any person, firm or corporation, who fails to comply with this chapter shall have his electric service disconnected until such compliance is attained. Before electric service is disconnected for noncompliance, the general manager of the water and power department shall give such customer written notice that service is to be disconnected for violation of this chapter and that the customer has a right to a hearing before the general manager of the water and power department, or his authorized representative, within 10 days of the date the notice is mailed or personally delivered to the customer. In the event the customer requests such a hearing, disconnection of service shall be stayed until completion of the hearing."

Recommended Changes to the Pasadena Municipal Code

Staff recommends that the Pasadena Municipal Code be modified to allow the Director of the Planning and Community Development Department or his/her designee to suspend electric power or water service for violation of Title 14 (Building and Construction Code) or Title 17 (Zoning Code). Such suspension of service shall only be after the City has sought correction through existing code enforcement processes including the issuance of administrative citations or administrative compliance orders. The utility suspension would occur after a hearing before the Director of the Planning and Community Development or his/her designee, and only after an authorized representative determines that the customer has failed to abide by compliance orders as required by the City Manager or his/her designee.

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. No potentially significant

effect will arise from this code amendment and therefore no further environmental review is necessary.

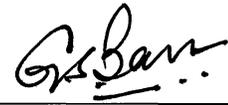
FISCAL IMPACT:

There is no fiscal impact on the General Fund although there may be negligible impacts on the Power Fund and Water Fund due to reduced revenues. Conversely, implementation of this strategy may reduce the amount of time and money required to close illegal marijuana dispensaries that continue to operate in violation of the Pasadena Municipal Code. There is no anticipated impact to other operational programs or capital projects as a result of this action.

Respectfully submitted,



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Approved by:



for STEVE MERMELL
City Manager

Attachment: (1)

Proposed Amendments to PMC Title 8, Chapter 8.88 and Proposed Amendment to PMC 14.040.030