

Agenda Report

November 6, 2017

TO: Honorable Mayor and City Council
FROM: Planning & Community Development Department
SUBJECT: MUNICIPAL CODE AMENDMENTS – MARIJUANA REGULATIONS

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378, and that the proposed action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment;
2. Adopt the Findings of Consistency with the General Plan in Attachment A;
3. Approve the proposed Municipal Code Amendments as contained in this report, which are to: 1) amend Title 17 (Zoning Code) to prohibit citywide personal outdoor cultivation of marijuana and apply reasonable regulations on personal indoor cultivation, prohibit citywide commercial marijuana activities, including retail sales and cultivation for commercial purposes, and allow the delivery of marijuana and marijuana products into the City from commercial marijuana businesses in other jurisdictions; 2) amend Title 8 (Health and Safety) to delete the current prohibition on commercial marijuana activity, and amend the tobacco prevention provisions to include marijuana; and 3) any other portion of the Municipal Code as may be necessary to implement the recommendations set forth herein;
4. Adopt a resolution of intent to legislate regarding disqualifying current illegal marijuana operators from any future city permitting; and
5. Direct the City Attorney to prepare an ordinance within 60 days amending the Pasadena Municipal Code as presented in this report.

EXECUTIVE SUMMARY:

On November 8, 2016, California voters approved Proposition 64, known as the *Control, Regulate and Tax Adult Use of Marijuana Act* ("AUMA"). This initiative legalized the recreational use of marijuana for individuals 21 years of age or older and permits small-scale personal cultivation throughout the State. The initiative also allows for retail sales

and other commercial marijuana activity by cannabis businesses licensed by the State, and established regulatory and taxing schemes for nonmedical marijuana activities. The terms marijuana and cannabis will be used interchangeably in this report.

Since AUMA does not rely on the principles of “permissive zoning,” it is necessary for the City to clarify its current regulatory prohibitions banning all commercial marijuana activity in the City, including marijuana dispensaries and commercial cultivation within Pasadena.

Following a series of community meetings (April), a study session with the Planning Commission (May), policy direction from the Economic Development and Technology Committee (August), and a public hearing before the Planning Commission (September), where the matter was debated at length, it was concluded that the City should retain local control of marijuana regulations. The recommended approach for the City of Pasadena in addressing the evolving state laws for marijuana/cannabis is to amend the Zoning Code to:

1. Prohibit citywide personal outdoor cultivation of marijuana and commercial marijuana activities, including retail sales and cultivation for commercial purposes; and
2. Allow the delivery of marijuana and marijuana products into the City from commercial marijuana businesses in other jurisdictions.

This approach will allow for the rollout of the state licensing and regulation mechanism (starting January 1, 2018) and for the City to learn from the best practices of other jurisdictions. While the action on personal outdoor cultivation is intended to be a permanent ban, the ban on commercial marijuana activities may be revisited in the future.

Regarding marijuana deliveries, the City cannot prohibit transportation through Pasadena per state law. Furthermore, while the City may wish to prohibit “on-the-ground” marijuana-related businesses, it may not want to restrict the ability of citizens to have marijuana delivered from legitimate retail outlets/dispensaries in other jurisdictions.

During discussions regarding potential regulations, it became clear that, if the City revisits the ban, it will want to impose criteria for eligibility for approval to engage in commercial marijuana activity, including disqualifying current illegal marijuana operators from any future city permitting. To provide sufficient notice to such illegal operators, adoption of a Resolution of Intent to Legislate Regarding Disqualifying Current Illegal Marijuana Operators is included herewith. This provides those currently operating illegally the choice of continuing to violate the city’s land use regulations and be prevented from operating in the future, or comply with the local laws and preserving the option to participate in the future should the city permit such activity.

Finally, other provisions of the PMC require amendment to effectuate the ban proposed herein, including deleting from Title 8 (Health and Safety) the current prohibition on commercial marijuana activity, and amending the tobacco prevention provisions to

include marijuana. There may be other minor amendments necessary in other chapters of the PMC, so a catch-all request is being made for authority to amend any other portions thereof as may be necessary to implement the ban.

BACKGROUND:

Statutory History of Marijuana Regulations

In 1996, California voters adopted Proposition 215, also known as the *Compassionate Use Act* (“CUA”). The CUA exempted qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes. Nonetheless, in 2005 the City acted to ban marijuana dispensaries by amending its Zoning Code (Title 17) to define Medical Marijuana Dispensaries as a use not allowed in the City, relying on the legal theory of “permissive zoning” to support this ban.

In 2003, the California Legislature passed SB 420, the *Medical Marijuana Program* (“MMP”), to further clarify the scope of Proposition 215. The MMP established a voluntary process for issuing identification cards for medical marijuana users to help law enforcement identify the cardholder as legally able to possess certain amounts of medical marijuana under specific conditions. The MMP also extended certain legal protections to those that collectively or cooperatively cultivate marijuana for medical purposes.

For many years there was uncertainty about the ability of local governments to control medical marijuana activities. In 2013, the California Supreme Court confirmed a local jurisdiction’s ability to prohibit medical marijuana dispensaries within its boundaries. The court found that neither the CUA nor the MMP preempt a local jurisdiction’s regulatory authority to determine land use policies.

In an effort to further clarify and establish statewide regulations regarding the use and cultivation of medical marijuana, the California Legislature adopted the *Medical Marijuana Regulation and Safety Act* (“MMRSA”) in 2015.

On January 11, 2016, the City Council adopted Ordinance No. 7272, which added Chapter 8.77 (*Prohibition of Commercial Marijuana Activity*) to the Pasadena Municipal Code. This action confirmed that the Pasadena Municipal Code operates under the principles of permissive zoning, that marijuana cultivation, processing, and dispensaries are prohibited uses in the City, and that delivery services cannot originate from within Pasadena or deliver to addresses in Pasadena. The complete ban on all marijuana cultivation is now inconsistent with state law.

Senate Bill 94

On June 27, 2017, Governor Brown signed SB 94, also known as the *Medicinal and Adult-Use Cannabis Regulation and Safety Act*. SB 94 merges medical and nonmedical

marijuana/cannabis regulations into a single regulatory scheme. Prior to SB 94, medical marijuana was regulated by the MMRSA and nonmedical marijuana was regulated by the AUMA. With the implementation of SB 94, the MMRSA was repealed and certain licensing provisions from the MMRSA were inserted into the AUMA framework. SB 94 eliminated the dual licensing scheme previously established by the MMRSA, where applicants were required to obtain a local license or permit to operate a marijuana business prior to being issued a state license. SB 94 retains local control by allowing local jurisdictions to regulate or prohibit commercial cannabis activity within their jurisdiction.

Under SB 94, a local jurisdiction shall provide to the Bureau of Cannabis Control a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. Commercial cannabis activity is defined as including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products.

When a state licensing authority receives an application from a prospective marijuana business, that authority must notify the designated contact person of the local jurisdiction. The local jurisdiction must then notify the state licensing authority as to whether an applicant is compliant with local ordinances. If the local jurisdiction fails to respond within 60 business days, a rebuttable presumption is made that the applicant is compliant with all applicable local ordinances. Beginning January 1, 2018, SB 94 authorizes state licensing authorities to issue temporary licenses for up to 120 days if the applicant provides a valid license, permit, or other authorization by a local jurisdiction that enables the applicant to conduct commercial marijuana activity at the location requested for the temporary license.

Overview of AUMA/SB 94

Personal Use

Effective November 9, 2016, AUMA makes it legal for anyone 21 and older to:

- Smoke or ingest marijuana and marijuana products (subject to certain limitations);
- Possess, obtain, give away, purchase, and process up to one ounce of marijuana and up to 8 grams of concentrated marijuana;
- Possess, plant, harvest, dry, or process up to six living plants within a single private residence or an enclosed and secure accessory structure to a private residence (“private residence” includes a house, apartment, mobile home, or other similar dwelling); and
- Possess, plant, harvest, dry, or process up to six living plants upon the grounds of a private residence, *unless* outdoor cultivation is prohibited by local regulations.

The City may permit, regulate, or prohibit outdoor cultivation of up to six plants on private property for personal consumption. However, local agencies may not prohibit indoor cultivation of up to six plants within a residence, including a detached accessory structure located on the property. The City may impose “reasonable regulations” on personal cultivation of plants within a personal residence to address health and safety concerns.

The new law establishes that marijuana may not be smoked in public places (including the Rose Bowl and Brookside Golf Course), anywhere tobacco smoking is prohibited, or within 1,000 feet of a school, day care center, or youth center where children are present. There are two exceptions to this last prohibition: AUMA allows for marijuana to be smoked within 1,000 feet of a school, day care center, or youth center where children are present if it occurs at a private residence or a business licensed to allow for on-site marijuana smoking, and such smoking is not detectable by others at the nearby school, day care center, or youth center. It is also illegal under AUMA to possess or smoke marijuana on school grounds, or at day care or youth centers when children are present.

The law does allow for private property owners to prohibit any of AUMA’s permitted personal use and possession activities. Government agencies may prohibit such activities within buildings owned, leased, or occupied by the government agency. Private employers may maintain or adopt a drug-free workplace policy that prohibits the use of marijuana by employees.

Commercial Uses

SB 94 creates a licensing and regulatory system for commercial cannabis activities, including commercial cultivation, sales, distribution, manufacturing, and testing. The regulatory structure currently contains 20 types of commercial licenses. The California Bureau of Medical Marijuana Regulation (renamed the Bureau of Cannabis Control) within the Department of Consumer Affairs will regulate and issue licenses to microbusinesses, and businesses engaged in transportation, storage unrelated to manufacturing activities, distribution, testing, and sale of cannabis and cannabis products. The Department of Food and Agriculture will regulate and issue licenses to cannabis cultivation businesses, and the Department of Public Health will regulate and issue licenses to cannabis manufacturing businesses. It is anticipated that the regulations and state licensing will be developed by January 1, 2018. It is illegal for a commercial nonmedical (or medical) marijuana business to operate without a state license.

SB 94 retains provisions that allow local jurisdictions control over whether cannabis businesses can operate in their jurisdiction. Specifically, Section 26200 of the Business and Professions Code states:

(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

State licensing authorities shall not approve an application for a state cannabis license if it would violate a local ordinance or regulation adopted pursuant to Business and Professions Code Section 26200 (Bus. & Prof. Code § 26055(d)). SB 94 does not require applicants seeking a state license to provide documentation that they have permission from local authorities to operate their marijuana business. The law does not rely on “permissive zoning,” and local agencies must act to either regulate or expressly prohibit such commercial activities.

As such, a local agency may permit, regulate, or prohibit the commercial cultivation and/or commercial sales/distribution of nonmedical marijuana within its boundaries. The state standards will be minimum requirements. If commercial operations are permitted, a local agency may establish additional standards and requirements.

Taxation

AUMA also imposes taxes on commercial sales and cultivation of marijuana. Starting January 1, 2018, AUMA implements a state excise tax on purchases of marijuana and a tax on cultivation of marijuana. The tax on purchases is 15% of the gross receipts of any retail sale of medical or nonmedical marijuana. The cultivation tax will be imposed on harvested marijuana. The tax is \$9.25 per dry weight ounce. The tax for marijuana leaves is \$2.75 per dry weight ounce. The state excise tax and the cultivation tax shall be “in addition to any other tax imposed by a city, county or city and county,” but medical marijuana purchases by qualified patients and caregivers will be exempt from all local sales and use taxes. Sales tax also applies to the commercial sale of marijuana and marijuana products.

A portion of the proceeds of the taxes adopted per AUMA will be allocated to grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with implementation of AUMA. Local governments are prohibited from receiving these grants if they ban (1) commercial cannabis cultivation, (2) the outdoor cultivation of cannabis, including on private residences, or (3) the retail sale of cannabis or cannabis products. Since the City currently prohibits outdoor cannabis cultivation and cannabis dispensaries (i.e. retail sales), it would not be eligible to receive these grants.

Conflict with Federal Law

The Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. Because marijuana remains illegal under federal law this means that any ordinance regulating, rather than prohibiting commercial cannabis activity, while consistent with state law, would conflict with federal law.

DISCUSSION:

Personal Use and Cultivation

AUMA makes it legal for individuals 21 and older to cultivate up to six plants within a single private residence or within an accessory structure to a private residence. No more than six plants may be planted or cultivated at a single private residence, no matter how many people live on the premises. A “private residence” includes a home, apartment, mobile home, or similar dwelling. AUMA requires that personal grows must be secured in a locked area and may not be visible from a public space.

Cities and counties may enact “reasonable regulations” for indoor cultivation permitted under state law, but may not completely prohibit it. Examples of “reasonable regulations” might include:

- A cultivation permit, with a fee
- Agreement for periodic inspections for compliance
- Compliance with building and fire codes
- Limitations on water use
- Adequate ventilation, mold containment, and management of chemicals

Cities and counties can either regulate or completely prohibit outdoor cultivation under AUMA. However, if the State Attorney General determines at some future time that the recreational use of cannabis is lawful under federal law, then a local jurisdiction would no longer be able to prohibit outdoor cannabis cultivation. AUMA also allows for private property owners, such as landlords, to restrict or prohibit indoor and/or outdoor cultivation on their property (Health & Safety Code § 11362.45(h)).

Therefore, while Pasadena may either prohibit or regulate outdoor cultivation of marijuana under AUMA, the City must either passively permit indoor cultivation or reasonably regulate it. Also, given the accessibility of marijuana grown outdoors, there may be risks to public safety, health, and welfare associated with outdoor cultivation, including the potential for theft, increased youth exposure to marijuana, and odor.

Recommendation: It is recommended that personal outdoor cultivation be prohibited to minimize the potential negative impacts from marijuana cultivation in residential areas, including the potential for crime, youth exposure, and odor. It is also recommended that reasonable regulations be applied to indoor cultivation such as prohibiting in locations designated for vehicle parking.

The following matrix outlines the recommended regulations for personal cultivation of marijuana and compares the minimum State requirements to the recommended regulations.

Personal Cultivation		
	SB 94	Recommended Pasadena Regulations
Use	No license required	City cannot require an entitlement
Location	Within the grounds of a single private residence	Indoor Cultivation: <ul style="list-style-type: none"> • City cannot further regulate if within a private residence or fully enclosed accessory structure (e.g., greenhouse) Outdoor Cultivation: <ul style="list-style-type: none"> • Prohibit all outdoor cultivation
Number	Up to 6 plants	City cannot further regulate the number of plants
Operating Standards	None	Adhere to the City's watering restrictions
Siting	In a locked space not visible by normal vision from a public space	Indoor Cultivation: <ul style="list-style-type: none"> • Allow within residence and fully enclosed permitted accessory structures • Prohibit in structures used for vehicle storage • Apply accessory structure regulations (i.e. setbacks, lot coverage, etc.) Outdoor Cultivation: <ul style="list-style-type: none"> • Prohibit all outdoor cultivation

Commercial Uses

Historically, Pasadena has prohibited medical marijuana dispensaries and recently affirmed that cultivation of medical marijuana is not a permitted use under the City's permissive zoning. If the City wishes to continue to prohibit, or otherwise regulate, commercial activities related to nonmedical marijuana, the City should amend the Zoning Code to codify such action so as to not rely on the current "permissive zoning" language. Furthermore, if a local agency does not adopt regulations that specifically prohibit or permit commercial cannabis activity, the State could issue permits to applicants without the need for a local permit. The state departments responsible for creating the licensing system for commercial activities will be ready to issue permits January 1, 2018.

Based upon the City's current prohibition on dispensaries, Pasadena could continue to prohibit marijuana-related business activities such as commercial grow operations, sales, manufacturing, and deliveries. Commercial marijuana cultivation sites can be targets for property theft and/or violent crime. While the industry may be achieving a greater legitimacy under the new laws, illegal marijuana suppliers may find lawful cultivation, warehousing, sales, and testing businesses to be attractive targets for theft due to the high quality of indoor produced marijuana and the quantity of processed product at the site. The Pasadena Police Department has expressed concern regarding the potential for increased criminal activities related to these types of uses.

Further complicating matters is that such businesses remain illegal under federal law, making it difficult to conduct financial transactions through typical banking methods. As such, commercial marijuana businesses remain "cash-only" operations, which adds complexity to revenue collection and potential criminal activity. Some of the other issues related to AUMA/SB 94 and local regulations include:

- Impacts to the public health and safety of adults and children
- Odor control and neighborhood livability
- Environmental impacts, including increased water consumption
- Electricity consumption in the case of greenhouses
- Inconsistencies between state legislation and federal drug regulations

Health Effects of Marijuana Use

The health effects of marijuana/cannabis can vary depending on the route of administration, potency, type of cannabinoid (chemical extracted from cannabis) used, and other factors. Cannabis intoxication alters brain function, perception, behavior, memory, and motor skills. Cannabis use disorder is a clinical diagnosis that is defined by problem use characterized by craving, tolerance, withdrawal, and recurrent use despite persistent physical, social, occupational, or recreational impacts. Three oral cannabinoid-based medications have been licensed by the U.S. Food and Drug Administration for treatment of nausea and vomiting associated with chemotherapy and to stimulate appetite in AIDS patients affected by wasting syndrome.

In 2017, the National Academy of Sciences published a report, "*The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research*," that comprehensively reviewed over 10,700 scientific abstracts. The report found conclusive, substantial, or moderate scientific evidence for the following therapeutic effects of cannabis: treatment of chronic pain in adults, treatment of chemotherapy-induced nausea and vomiting, improving patient-reported muscle spasms related to multiple sclerosis, and for improving short-term sleep outcomes for individuals with certain medical conditions. The report presented substantial or moderate evidence for the following risks related to cannabis use: worse respiratory symptoms such as bronchitis, increased risk of motor vehicle crashes, lower birth weight for newborns of mothers who used cannabis while pregnant, increased risk for

progression to problem cannabis use, increased risk of overdose injuries among children, impaired learning, memory, and attention, increased mania in individuals with bipolar disorder, small increased risk for depression, increased risk of suicide, and increased risk of social anxiety disorder. There is moderate evidence of no statistical association between cannabis use and lung cancer, head or neck cancers, and worsening negative symptoms of schizophrenia among individuals with psychotic disorders.

There are significant public health and safety impacts reported from Colorado after recreational marijuana use was legalized in 2013. These include a disproportionate increase in use by youth and adults, compared to nationally, and a disproportionate increase in marijuana-related traffic deaths compared to other traffic deaths. Colorado reported an increase in marijuana-related emergency department visits and hospitalizations in general, and for children, an increase in unintentional child marijuana exposures, marijuana-related pediatric hospital visits, and marijuana-related regional poison control center child cases.

Taxation

In November 2016, voters in 37 California cities approved an excise tax for at least one category of marijuana cultivation and/or sales. Thirty (30) of the approved measures included a gross receipts business tax component and 19 included a per square foot tax component. The majority of the gross receipts taxes approved were related to the sale of both medical and recreational marijuana and related products; however, some local agencies also elected to use a gross receipts tax for cultivation and manufacturing. Other agencies chose to use the per square foot methodology for cultivation and manufacturing. Additionally, some local agency ballot measures included an excise tax component based on the weight of the product. This type of tax structure was generally proposed for the cultivation aspects of production and mirrors what the State of California approved through Proposition 64. If an excise tax were levied by Pasadena, the collection of these taxes would likely be managed through the business license tax process.

If a tax measure was put before the voters, timing and the use of the tax are two critical components. A "general" tax measure where revenues are used for unrestricted purposes only requires approval by a majority of the voters. Any general tax measure submitted to voters must be consolidated with a regularly scheduled general election for members of City Council except in cases of emergency as declared by a unanimous vote of the City Council. A "special" tax measure where the tax will be used for a specified purpose requires two-thirds voter approval and can be considered at either a general or special election. The next special election that would coordinate with the County of Los Angeles is in June 2018. Since this would be a special election for Pasadena, the cost to place the measure on the ballot would be significantly more compared to a general election. The projected cost for a special election is \$250,000, which is approximately \$100,000 more than the cost of a regular election.

In the future, should commercial marijuana uses be reconsidered and allowed, the City should consider some sort of local excise tax on these products. Commercial marijuana activities would be anticipated to have impacts on the community (e.g., potential for crime) and without the collection of taxes on the allowed use(s) the City would not have the resources to address those impacts.

Recommendation: With potential negative externalities in mind, it is recommended that the City expressly prohibit commercial marijuana activities until such time when it can better understand the impacts of such uses. This approach would allow staff and City policymakers an opportunity to observe the rollout of the state licensing and regulatory mechanism and learn from the best practices of other jurisdictions. As well, it may allow the electorate an opportunity to vote on a tax on the sale and cultivation of marijuana that could be collected to offset any negative impacts from commercial marijuana activities in the City.

Marijuana Deliveries

Under Pasadena Municipal Code Section 8.77.020, the City currently prohibits deliveries to or from locations in Pasadena. However, the City cannot prohibit transportation through Pasadena. While retail outlets, dispensaries, and other forms of commercial operations can be regulated under land use controls, delivery itself is not an activity readily regulated under the Zoning Code; it is typically an ancillary activity of a land use. Furthermore, while the City may seek to prohibit “on-the-ground” marijuana-related businesses, policymakers should consider whether or not to involve the City in the ability of residents to have the option to have delivered marijuana from legitimate retailers/dispensaries that have state licenses. Given the challenges associated with enforcement, staff does not recommend prohibiting deliveries.

Recommendation: It is recommended that marijuana deliveries be permitted through and to locations within the City from commercial marijuana operations in other jurisdictions.

It is further recommended that the section of Title 8 that bans all commercial marijuana activity be deleted as the recommended changes to Title 17 herein will now encompass that ban, and to amend the tobacco prevention provisions in Title 8 as necessary to clearly apply to marijuana.

It is further recommended that staff be given authority to amend any other provision of the PMC that may be necessary to effectuate the ban.

Resolution of Intent to Legislate Regarding Disqualifying Current Illegal Marijuana Operators

Prior to being given direction to come forward with the ban, staff had proposed certain potential PMC amendments to allow, but regulate, marijuana activity in the City. As

discussed above, the City may in the future opt to take such action. If so, the City will want to impose criteria for eligibility for approval to engage in commercial marijuana activity, including possibly disqualifying current illegal marijuana operators from any future city permitting. The argument could be made that such disqualification is an *ex post facto*, or retroactive, operation of law that changes the status of an applicant from eligible to ineligible without current awareness of the impact of illegal operation. While that argument is not supported by current case law in the marijuana field, the City further insulates itself from an *ex post facto* challenge by putting illegal operators on notice at this early stage of its intent to disqualify illegal marijuana operators from any future City permitting scheme.

ENVIRONMENTAL REVIEW:

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. Furthermore, the proposed action is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

CONCLUSION:

With the passage of the AUMA and SB 94 and the legalization in California of recreational/nonmedical marijuana, local agencies including Pasadena will need to act to either prohibit or regulate commercial nonmedical marijuana activities, and to permit unfettered or to reasonably regulate personal cultivation of marijuana. The state departments responsible for creating the licensing system for commercial activities are expected to be ready to start issuing permits by January 1, 2018, providing the City only a limited amount of time to consider and establish policies and regulations for commercial marijuana activities. The recommendation currently is to 1) amend Title 17 (Zoning Code) to prohibit citywide personal outdoor cultivation of marijuana and commercial marijuana activities, including retail sales and cultivation for commercial purposes, and allow the delivery of marijuana and marijuana products into the City from commercial marijuana businesses in other jurisdictions; 2) amend Title 8 (Health and Safety) to delete the current prohibition on commercial marijuana activity, and amend the tobacco prevention provisions to include marijuana; and 3) any other portion of the Municipal Code as may be necessary to implement the recommendations set forth herein; and as well to adopt a resolution of intent to legislate regarding disqualifying current illegal marijuana operators from any future city permitting. However, it must be noted that given the strong opinions on marijuana use and commercial activity it is conceivable that someone could begin an initiative process to have the electorate consider a different set of marijuana regulations that would permit and regulate commercial marijuana activities.

FISCAL IMPACT:

There is not a direct fiscal impact associated with the adoption of the proposed Municipal Code Amendments. Significant City resources have been devoted to addressing issues associated with illegal dispensaries. Establishing the proposed regulations is expected to reduce the number of illegal dispensaries thus reducing the costs for the City.

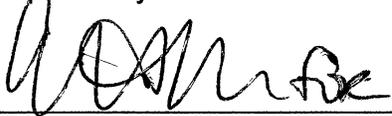
In the future, should the City permit dispensaries, it is recommended that voter approval be sought for an excise tax to generate funding to support increased police, public health and social services.

Respectfully submitted,



DAVID M. REYES
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STEVE MERMELL
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Attachment

Attachment A - Findings of Consistency