



Legislation Text

File #: 15-0984, **Version:** 1

Recommendation to receive and file the City Attorney's report on Medical Marijuana.

On September 1, 2015, Council requested the City Attorney submit a report regarding the issue of medical marijuana. The City Attorney's Office was requested to: (1) report back to the City Council regarding the implications of AB 266, if it was passed by the Legislature; (2) provide a comparison of the various recommendations made by the Medical Cannabis Task Force with those made by the Planning Commission; and (3) provide a list of topics that the Council must address if the City is to adopt a comprehensive medical marijuana regulatory ordinance.

On September 10, 2015, the California Legislature, with input from the Governor's Office, essentially "gutted" AB 266, and instead, passed three separate bills which are collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"). The Governor has until October 11, 2015, to act on these bills. The three bills, AB 266 (Bonta), AB 243 (Wood), and SB 643 (McGuire), are extensive and establish the first comprehensive statewide regulatory framework for the cultivation, testing and distribution of medical cannabis and medical cannabis products. An initial overview of the key regulatory features of the three bills is attached as Exhibit "A".

Attached as Exhibit "B" is a Chart which sets forth a comparison of the recommendations made by the Medical Marijuana Task Force and the Planning Commission when it submitted a draft medical marijuana regulatory ordinance to the City Council at a study session on February 10, 2015. A third column in the Chart describes the impact of the state legislation on the recommendation.

The MMRSA makes clear that local public entities retain their current right to ban medical marijuana dispensaries, cultivation sites, and related medical marijuana activities within their respective jurisdictions. The MMRSA also makes clear that cities are fully empowered to adopt regulatory ordinances related to medical marijuana. If cities choose to regulate medical marijuana, they may adopt typical land use regulations such as zoning restrictions, buffer areas, cultivation regulations, Conditional Use Permit ("CUP") requirements, application and licensing requirements, regulatory fees, taxes, and the like.

The City's current ban on medical marijuana activities remains in effect. If Council desires to retain the ban in its present form it need do nothing. If, on the other hand, Council desires to adopt a regulatory ordinance, the City Attorney's Office requests direction on several key elements of such an ordinance. The critical issues that must be addressed include:

1. Number of dispensaries per Council District or Citywide;
2. Which zoning districts;
3. Buffer from which locations (e.g., schools, parks, libraries, childcare facilities);
4. Cultivation;
5. Delivery; and
6. Timing.

Any regulatory ordinance adopted by the City Council would operate in conjunction with the numerous provisions of the MMRSA, if the three bills are approved by the Governor. However, many of the provisions of the MMRSA require that various State agencies formulate and adopt administrative regulations before the MMRSA becomes fully operational. If the Council chooses to adopt a regulatory ordinance at this time, the City Attorney's office would craft an ordinance that would address the City's immediate local concerns and would include provisions that would transition certain regulatory functions and responsibilities to the State (e.g., product testing, labeling, and certain licensing activities) when the various State agencies are in a position to commence their respective regulatory activities pursuant to the MMRSA.

Approve recommendation.

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