

ORDINANCE NO. 574-AC
REPEALING ORDINANCE NO. 564-AC;
AMENDING CHAPTER 12A THE NEEDLES
MUNICIPAL CODE; AND AMENDING
SECTION 96.01 OF THE NEEDLES ZONING
CODE.

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, known as the Compassionate Use Act ("*Act*") (codified as Health and Safety (H&S) Code § 11362.5, *et seq.*), which creates limited immunity from criminal liability under California law, as opposed to federal law, for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420, known as the Medical Marijuana Program Act ("*Program*"), became law (codified as H&S Code § 11362.7, *et seq.*), which established a statewide identification card program for qualified medical marijuana patients and their primary caregivers and extended the Act's limited immunity from criminal liability to collective and cooperative cultivation of medical cannabis; and

WHEREAS, Section 11362.83 of the Program provides that local governments are free to adopt laws that are consistent with State law; and as such, may impose greater restrictions on medical marijuana collectives than those imposed by the Program; and

WHEREAS, in August 2008, the Attorney General of the State of California set forth Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use ("*Guidelines*") which affirms the immunity of medical marijuana collectives and cooperatives under California law, but makes clear that such entities cannot be operated for profit, may not purchase marijuana from unlawful sources and must have a defined organizational structure that includes detailed records proving that members are legitimate patients; and

WHEREAS, on November 26, 2012, the City voters approved the adoption of the Marijuana Business Tax Ordinance and authorized the collection of a Marijuana Business Tax of up to 10% of gross receipts. In December 2012, the City Council set the Marijuana Business Tax at 10%; and

WHEREAS, on October 9, 2015, Governor Brown signed into law three bills (Assembly Bill 266 ("*AB 266*"), Assembly Bill 243 ("*AB 243*"), and Senate Bill 643 ("*SB 643*") (collectively the "*Medical Marijuana Regulation and Safety Act*") which establish a statewide regulatory scheme for the licensing, cultivating, processing, transporting, testing, and distributing of medical cannabis; and

WHEREAS, the Medical Marijuana Regulation and Safety Act protects local control by providing for a dual licensing scheme, requiring commercial Marijuana Businesses to obtain both a State and local permit or license to operate in California; and

WHEREAS, it is the City Council's intention that this Ordinance shall be deemed to comply with California law as established by the Act, the Program, and the Medical Marijuana Regulation and Safety Act; and

WHEREAS, it is the City Council's intention that nothing in this Ordinance shall be construed to: (a) allow persons to engage in conduct that endangers others or causes a public nuisance; or (b) allow any activity relating to the cultivation, manufacturing, testing, distribution, or consumption of Marijuana that is otherwise not permitted under State law; and

WHEREAS, the City Council has determined that it is in the interests of the public health, safety, and welfare of the City to have a strong and effective regulatory and enforcement system that does not interfere with a qualified patient's rights to use Medical Marijuana under State law; and

WHEREAS, State law and the City Code require the Planning Commission to review the land use component of this Ordinance prior to City Council consideration. The Planning Commission met on November 23, 2015 regarding the proposed amendments to the City Code and recommended appropriate locations for the establishment and operation of Marijuana Businesses in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEEDLES DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 2. The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 3. Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the City of Needles Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 4. The City Council hereby declares that by adopting this Ordinance, the City

Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to liability for money damages to any person who claims that such breach proximately caused injury. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to any provision of this Ordinance, or for the activities of any Marijuana Business. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Ordinance shall not become a personal liability of any public officer or employee of the City. Nothing in this Ordinance shall be deemed or considered in any respect to constitute authorization to violate any State, federal or local law.

SECTION 5. The City Council hereby repeals Ordinance No. 564-AC, and amends City Code Chapter 12A to read as follows:

Chapter 12A
MARIJUANA BUSINESSES

Section 12A-1-Purpose and Intent.

The purpose of this Chapter is to enact new City legislation to regulate Marijuana Businesses operating within the City in accordance with State law, in order to protect the health, safety and general welfare of the residents and businesses within the City.

Section 12A-2-Definitions.

For purposes of this Chapter, the words outlined in this subsection shall have the following definitions:

- (A) “**Act**” shall mean the Compassionate Use Act, known commonly as Proposition 215, codified as Health & Safety (“H&S”) Code §11362.5, *et seq.*
- (B) “**CEQA**” shall mean the California Environmental Quality Act (Public Resources Code § 21000, *et seq.*) and the CEQA Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, § 15000, *et seq.*)
- (C) “**City**” shall mean the City of Needles.
- (D) “**Code**” shall mean the City of Needles Municipal Code.
- (E) “**Cooperative or Collective**” shall mean a non-residential fixed and stationary building where Marijuana is made available, offered, exchanged, sold, and/or distributed by or to more than five (5) Qualified Patients and their Primary caregiver(s) who collectively or cooperatively share physician recommended Marijuana and/or Marijuana products, including edibles, in a manner strictly consistent with State law and regulations, including but not limited to, the Act, the Program and the Guidelines, and the Medical Marijuana Regulation and Safety Act, as may be amended from time to time.

- (F) **“Cooperative/Collective License”** shall mean a license issued by the City Manager or his/her designee required by this Chapter to own, operate and/or manage a Cooperative/Collective.
- (G) **“Cultivation”** means the planting, growing, harvesting, drying, curing, grading, trimming, and/or processing of one or more Marijuana plants or any part thereof, in any location, indoor or outdoor, including within a Fully Enclosed Structure as defined in Subsection 12A-2(J).
- (H) **“Cultivation Facility”** shall mean a non-residential fixed and stationary building where Marijuana Cultivation occurs by members of a Cooperative/Collective or on behalf of members of a Cooperative/Collective.

Cultivation Facility does not include Personal Use Cultivation as defined in Subsection 12A-2(S).

- (I) **“Deliver”** or **“Delivery”** shall mean the transfer of Marijuana or Marijuana products from a Cooperative/Collective to a Qualified Patient or their Primary Caregiver in strict accordance with State law. **“Delivery”** also includes any technology platform owned and controlled by the Cooperative/Collective, or independently licensed under State law, that enables Qualified Patients or their Primary Caregivers to arrange for or facilitate the delivery of Marijuana and/or Marijuana products from a Cooperative/Collective to Qualified Patients and/or their Primary Caregivers.
- (J) **“Fully Enclosed Structure”** shall mean an enclosed space within a properly permitted building, greenhouse, or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through doors and inaccessible to minors.
- (K) **“Guidelines”** shall mean the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the California Attorney General in August 2008, as may be amended from time to time.
- (L) **“Marijuana”** shall mean all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. **“Marijuana”** also means the separated resin, whether crude or purified, obtained from marijuana. **“Marijuana”** also means marijuana as defined by Section 11018 of the Health and Safety Code.

“Marijuana does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purposes of this Chapter, **“Marijuana”** does not mean **“industrial hemp”** as defined by Section 81000 of the Food and Agriculture Code or Section 11018.5 of the Health and Safety Code.

- (M) **“Marijuana Business”** means any Marijuana related activity, including but not limited to, planting, cultivation, harvesting, transporting, manufacturing, compounding, converting, processing, preparing, storing, packaging, testing, wholesale, and/or retail sales of Marijuana or any Marijuana product, whether or not carried on for gain or profit.
- (N) **“Marijuana Business Tax”** shall mean any tax established by the City Council and approved by the voters, as may be amended from time to time, for the purpose of taxing any Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business, including any activities related thereto, within the City.
- (O) **“Marijuana Cultivation License”** shall mean a license issued by the City Manager or his/her designee required by this Chapter to own, operate and/or manage a Cultivation Facility.
- (P) **“Medical Marijuana Regulation and Safety Act”** shall mean collectively Assembly Bill 266 (**“AB 266”**), Assembly Bill 243 (**“AB 243”**), and Senate Bill 643 (**“SB 643”**) signed into law by Governor Brown on October 9, 2015, as may be amended from time to time.
- (Q) **“Operator”** shall mean any and all persons who are responsible for the operation and day to day management of the Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business, and who is designated to be present, and who is present, at all times during the Cooperative/Collectives’, Cultivation Facility’s, and/or other Marijuana Business’ hours of operation.
- (R) **“Owner”** shall mean any and all owners of a Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business, including all persons or entities having ownership or possessory interest other than a security interest, lien, or encumbrance on property that will be used by the facility. If the owner(s) are an entity, “Owner” includes within the entity each person participating in the direction, control, operation, management of, or having a financial interest in, the Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business. If the Owner is a publically traded company, “Owner” means the chief executive officer of the publically traded company and/or any person or entity with an aggregate ownership interest of 5% or more.
- (S) **“Personal Use Cultivation”** shall mean cultivation by either:
- (1) An individual Qualified Patient cultivating Marijuana pursuant to Health and Safety Code section 11362.5, if the area he/she uses to cultivate Marijuana does not exceed 100 square feet and he/she cultivates Marijuana for his/her personal medical use and does not sell, distribute, donate, transfer, or provide Marijuana to any other person or entity; or
 - (2) A Primary Caregiver cultivating Marijuana pursuant to Health and Safety Code section 11362.5, if the area he/she uses to cultivate Marijuana does not exceed 500 square feet and he/she cultivates Marijuana exclusively for the medical use of

no more than five (5) specified Qualified Patients for whom he/she is the Primary Caregiver within the meaning of Health and Safety Code section 11362.7, and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Health and Safety Code section 11362.765.

- (T) **“Primary Caregiver”** shall mean the individual designated by a Qualified Patient, who has consistently assumed responsibility for the housing, health, or safety of that Qualified Patient.
- (U) **“Program”** shall mean the Medical Marijuana Program Act, known commonly as Senate Bill 420, codified as H&S Code §11362.7, *et seq.*, as may be amended from time to time.
- (V) **“Qualified Patient”** shall mean any seriously ill patient where medical use of Marijuana is deemed appropriate and it has been recommended by a physician who has determined that the person's health would benefit from the use of Marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which Marijuana provides relief.

Section 12A-3-Operation of Marijuana Businesses.

- (A) It shall be unlawful for any person or persons to operate and/or manage a Cooperative/Collective, Cultivation Facility, or other Marijuana Business within the City without first obtaining a Cooperative/Collective License or Marijuana Cultivation License, issued by the City Manager pursuant to the provisions of this Chapter, as well as a zoning permit or conditional use permit, as applicable, and a City Business License.
- (B) Upon the State commencing the issuance of permits/licenses for commercial cannabis/marijuana activities and/or cultivation, it shall be unlawful for any person or person(s) to own, operate and/or manage, or cause another to operate and/or manage, a Cooperative/Collective, Cultivation Facility, or other Marijuana Business within the City without having applied for a State permit/license for that purpose. Notwithstanding anything in this Chapter to the contrary, a Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business that is existing, open and operating in compliance with this Chapter, the City Code, and State law, may continue operations until its State permit/license has been approved or denied by the applicable State licensing authority. If the Owner of any preexisting Cooperative/Collective, Cultivation Facility, and/or other Marijuana Business has not applied for a State permit/license within thirty (30) days of the State commencing issuance of permits/licenses for commercial cannabis/marijuana activities and/or cultivation, the Cooperative/Collective, Cultivation Facility, or other Marijuana Business shall immediately cease operation. Once the State begins issuing permits/licenses, the City shall notify the appropriate State agency of those Marijuana Businesses authorized to operate within the City.

Section 12A-4-Cooperatives/Collectives.

It is unlawful for any person(s) to own, operate or manage a Cooperative/Collective within the City, except as expressly provided herein:

- (A) Cooperative/Collective License. Any Cooperative/Collective that is existing, open and operating within the City as of December 25, 2014, shall file an application within thirty (30) days from the date this Chapter becomes effective with the City for a Cooperative/Collective License. The Cooperative/Collective License constitutes a revocable privilege, which shall be subject to revocation/suspension in the event that the Cooperative/Collective or its Owner(s), Operator(s), managers, employees, agents, members or volunteers violate any provision of this Chapter, State law or regulations, or fails to pay any City Marijuana Business Tax, or other fees when due.

- (B) License Application. An application for a Cooperative/Collective License shall be filed only by the Owner(s) of the Cooperative/Collective with the City Manager or his/her designee, along with any applicable fee to be set by the City Council by resolution, as may be amended from time to time. The application shall include the following information:
 - (1) The name, address, and telephone number of the Cooperative/Collective;
 - (2) The name, address and telephone number of the Owner(s) applying for the Cooperative/Collective License, along with a copy of an official, valid and unexpired government issued photo ID;
 - (3) The name and address of the owner(s) of the real property upon, in, or from which the Cooperative/Collective is to be operated. In the event the Owner(s) are not the legal owner(s) of the real property, the application shall be accompanied by a copy of a written and signed lease between the Owner(s) and the property owner authorizing use of the premises as a Cooperative/Collective, or, if no written lease exists, a written, notarized acknowledgement from the property owner(s) that he/she/they have been advised and agree that a Cooperative/Collective will be operated upon, in, or from the property;
 - (4) Certification that the applicant, or any of the officers, directors, Owners or Operators of the Cooperative/Collective have not been convicted of:
 - a. A homicide;
 - b. Within the preceding ten (10) years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
 - c. Within the preceding ten (10) years, any violation of subdivisions (d) or (e) of Health and Safety Code Section 11357, or Section 11361 and/or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and

Safety Code;

- d. Within the preceding five (5) years, any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360;
 - e. Within the preceding five (5) years, any violation of the Compassionate Use Act, the Medical Marijuana Program Act, or the Medical Marijuana Regulation and Safety Act;
- (5) Whether Delivery service of Marijuana to any location outside the Cooperative/Collective will be provided and the extent of such service (e.g. estimated amount of deliveries per month);
 - (6) Certification that the applicant, or any of its officers, directors, or Owners, Operators, employees, or agents is not a licensed physician making patient recommendations for Marijuana pursuant to Section 11362.7;
 - (7) Authorization for the City Manager or his/her designee to seek verification of the information contained in the application;
 - (8) Evidence that the Cooperative/Collective is operating as a bona-fide non-profit cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of Qualified Patients and the Primary Caregivers of those Qualified Patients, in strict accordance with State law, including the Act, the Program and the Guidelines, as well as the Medical Marijuana Regulation and Safety Act;
 - (9) One (1) set of fingerprints for each applicant in a form satisfactory to the City Manager or his/her designee. The fingerprints shall be taken at a place designated by the City Manager or his/her designee, and any required fee for such fingerprinting shall be paid by the applicant;
 - (10) A waiver and release of the City, its officers, officials, employees, and agents from any and all legal liability related to or arising from the application for a Cooperative/Collective License, the issuance of the Cooperative/Collective License, or the enforcement of the conditions of the Cooperative/Collective License, and/or the operation of the Cooperative/Collective;
 - (11) A warning that Owners, Operators, managers, agents, volunteers, employees, and members of Cooperatives/Collectives may be subject to prosecution under federal laws;
 - (12) A statement in writing by the applicant that he/she certifies under penalty of perjury that all information contained in the application is true and correct;
 - (13) Such other information as may be required by the City Manager or his/her

designee to determine compliance with any other eligibility requirements for issuance of the license as specified by state or local law.

- (C) Issuance of a Cooperative/Collective License. Within sixty (60) days following receipt of a completed license application, the City Manager or his/her designee shall grant a Cooperative/Collective License if the Owner(s) of the Cooperative/Collective have satisfied the requirements of this Chapter and all other applicable laws, including, but not limited to, the City's building, zoning, business, and health regulations, unless the City Manager or his/her designee determines any or more of the following to be true:
- (1) The applicant(s) have failed to provide information required by the license application or the application is otherwise deemed incomplete; or
 - (2) The applicant(s) have knowingly made a false statement or omission of fact in the application for the license; or
 - (3) The Cooperative/Collective is not properly operating in strict compliance with State law and regulations, including the Act, the Program, and the Guidelines, and the Medical Marijuana Regulation and Safety Act;
 - (4) The applicant, or any of the officers, directors, Owners or Operators of the Cooperative/Collective have been convicted of:
 - a. A homicide;
 - b. Within the preceding ten (10) years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
 - c. Within the preceding ten (10) years, any violation of subdivisions (d) or (e) of Health and Safety Code Section 11357, or Section 11361 and/or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code;
 - d. Within the preceding five (5) years, any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360;
 - e. Within the preceding five (5) years, any violation of the Compassionate Use Act, the Medical Marijuana Program Act, or the Medical Marijuana Regulation and Safety Act, or any other State law or Constitutional provisions regulating Marijuana.
 - (5) The applicant, or any of its officers, directors, Owners, Operators, employees or agents is a licensed physician making patient recommendations for Marijuana pursuant to Section 11362.7; or

- (6) The Owner(s) and/or Operator(s), if individuals, have not attained the age of eighteen (18) years.

(D) Denial of License Application.

- (1) If a Cooperative/Collective License is denied, the City Manager or his/her designee shall serve on the Owner(s) a written notice of denial within thirty (30) days of rendering the decision specifying the grounds for the denial and of the right to request a hearing in regard thereto.
- (2) The Owner(s) shall have the right to appeal from a decision by the City Manager or his/her designee to deny a Cooperative/Collective License by filing with the City Clerk a written notice of appeal, specifying the grounds for such appeal, within ten (10) days after the decision has been served on the Owner(s). Such appeal shall be heard by the City Council within 120 days after the notice of appeal is received by the City Clerk. The Owner(s) shall be given not less than thirty (30) days written notice of the date, time and location of the appeal hearing. The City Council shall consider all relevant evidence at the hearing, may continue the hearing, and may require evidence and legal briefing as the Council determines may be helpful in addressing issues raised by the appeal. Not more than ninety (90) days following the conclusion of the hearing, the City Council shall issue a written decision as to whether the application shall be granted or denied. The written decision shall be served on the Owner(s) of the Cooperative/Collective, with a copy served on the City Manager or his/her designee. The written decision of the City Council shall be final.

- (E) Legal Non-Conforming Uses. Those Cooperative/Collectives that were in existence, open and operating on or before December 25, 2014 are permitted uses within the zones identified in the Permissible Use Table at section 96.01 of the City Code. Notwithstanding that Cooperatives/Collectives were not permitted uses prior to the adoption of this Ordinance, any Cooperative/Collective that was existing, open, and operating on or before December 25, 2014, shall constitute a legal non-conforming use under Part III, Article XV "Non-conforming Situations," and shall be subject to all provisions related to Non-Conforming Situations, and shall be permitted to continue operating, provided it complies with all regulations applicable to the operation of Cooperatives/Collectives, including obtaining a Cooperative/Collective License from the City as provided for herein.

Section 12A-5-Regulations Applicable to the Operation of Cooperatives/Collectives.

Except as otherwise specifically provided in this Chapter, the following regulations shall be applicable to all Cooperatives/Collectives operating within the City:

- (A) No Cooperative/Collective shall dispense Marijuana from more than one (1) location within the City.

- (B) The Cooperative/Collective must have been in existence, open and operating within the City within a fixed and stationary building on or before December 25, 2014. For purposes of this Chapter, the terms “open and operating” shall mean those Cooperatives/Collectives which were sharing physician recommended Marijuana in compliance with California state law, including the Act, Guidelines, and the Program, and have paid any and all Marijuana Business Taxes when due as of December 25, 2014.
- (C) The Cooperative/Collective shall comply with the U.S. Department of Justice guidelines/priorities, including those prohibiting:
 - (1) Distribution of marijuana to minors;
 - (2) Providing revenue from the sale of marijuana to criminal enterprises, gangs and/or cartels;
 - (3) Diverting marijuana from a state where it is legal under state law to a state where it is illegal;
 - (4) Using marijuana activity as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
 - (5) Using or engaging in violence or use of firearms in the cultivation and/or distribution of marijuana;
 - (6) Contributing to drugged driving and/or the exacerbation of other adverse public health consequences associated with marijuana use;
 - (7) Growing marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and/or
 - (8) Possessing or use of marijuana on federal property;
- (D) The Cooperative/Collective shall comply with this Chapter, the Code and any applicable City resolutions, the Act, the Program and the Guidelines, as well as the Medical Marijuana Regulation and Safety Act, and any amendments thereto, as well as any other State law or Constitutional provision regulating Marijuana;
- (E) The Cooperative/Collective shall pay all legally required taxes and fees, including but not limited to, any Marijuana Business Tax, and sales tax pursuant to state and local law, as well as all other City and state imposed taxes and fees;
- (F) The Cooperative/Collective does not have any unpaid financial, fee, or tax obligation to the City that is not paid in full when due, including any assessed fines, penalties, taxes, business tax, fee, interest or other costs (collectively “unpaid tax obligations”). A Cooperative/Collective shall not be in breach of this subsection if it enters into and fully performs per the terms of a written offer and compromise or other written settlement

agreement with the City that satisfies any unpaid tax obligations. This subsection shall not deprive any Cooperative/Collective of rights, if any, to appeal or seek judicial determination of the propriety of any amounts alleged by the City as unpaid tax obligations, and a Cooperative/Collective shall not lose its Cooperative/Collective License hereunder due to the pendency of any such appeal or judicial determination;

- (G) The Cooperative/Collective shall only be open between the hours of 9:00 a.m. and 7:00 p.m., excluding delivery service, if any, which shall not operate or make deliveries between the hours of 9:00 p.m. and 9:00 a.m.;
- (H) The Cooperative/Collective shall maintain sales, inventory and patient records in a secure location within the City of Needles, available to the City Manager or Designee to review upon 24 hours' notice;

In the event said records are provided to the City Manager or Designee, it shall be the Cooperative/Collective's responsibility to ensure patient identities are redacted sufficiently to meet any requirements of HIPPA and any other applicable State or federal laws or regulations. Such records shall include, without limitation, records of all inventory received and/or sold, revenue and monies received, cost of inventory, patient records, physician's referral and, if using a Primary Caregiver, a notarized written authorization from the Qualified Patient to be represented by such Primary Caregiver;

- (I) Marijuana shall be kept in a secured manner during business and non-business hours;
- (J) All Marijuana shall be properly labeled and kept in a tamper-evident package in accordance with State law, as may be amended from time to time;
- (K) The Cooperative/Collective shall develop a security plan including the following measures:
 - (1) The Cooperative/Collective shall prevent individuals from remaining on the premises of the Cooperative/Collective if they are loitering or otherwise not engaging in activity expressly related to the operations of the Cooperative/Collective;
 - (2) The Cooperative/Collective shall establish limited access areas accessible only to authorized personnel;
 - (3) The Cooperative/Collective shall store all finished Marijuana and Marijuana products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of Marijuana used for display purposes, samples, or immediate sale;
 - (4) Digital security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or Designee.

The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, storage areas, all doors and windows, Marijuana tending areas, all areas where Cooperative/Collective staff and volunteers will interact or engage in transactions with members, all sales activities and transactions involving trade or exchange of Marijuana for monetary compensation or anything of value, all exterior parking areas and any other areas as determined by the City Manager or Designee.

Recordings made by the security cameras shall be made available to the City Manager or Designee upon 24 hours' notice.

Nothing in this section shall compel a Cooperative/Collective or require the City to voluntarily disclose or deliver said recording to any Federal government entity or agency absent a court order or subpoena;

- (5) The Cooperative/Collective premises shall be alarmed with an alarm system that is operated and monitored by a properly licensed security company. Any security personnel, armed personnel and armed security personnel of the Cooperative/Collective shall have and possess on their person any required federal, State and local permits and licenses.

The entrance to the Marijuana dispensing area and any storage areas shall be secured at all times, and under the control of Cooperative/Collective staff;

- (6) The business entrance(s) and all window areas shall be illuminated during evening hours. The Cooperative/Collective shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed;
 - (7) All windows on the building that houses the Cooperative/Collective shall be appropriately secured and all Marijuana securely stored; and
 - (8) Tending scales shall be used for the sale or trade of any and all Marijuana. All tending scales are to be in a digital (LED) display, character size a minimum of 1 inch. A separate surveillance camera shall monitor each LED scale display so that the LED scale readout can be read remotely;
- (L) The Cooperative/Collective shall prohibit on-site smoking, ingestion, or consumption of Marijuana on the Premises of the Cooperative/Collective, and the building entrance to a Cooperative/Collective shall clearly and legibly be posted with a notice indicating that smoking, ingesting, or consuming Marijuana or Marijuana products on the premises or within 500 feet of the Cooperative/Collective is prohibited.

The term "Premises" as used in this section includes the actual building of the Cooperative/Collective, as well as any accessory structures, parking areas and the entire real property on which the Cooperative/Collective is situated;

- (M) Signage for the Cooperative/Collective shall comply with the City sign ordinance and any amendments thereto;
- (N) Alcoholic beverages shall not be provided, sold, stored, kept, located, dispensed, distributed, or consumed on the Premises. The Cooperative/Collective shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages;
- (O) Windows and/or entrances of Cooperatives/Collectives shall not be obstructed and shall maintain a clear view into the Premises during business hours;
- (P) No one under eighteen (18) years of age shall be a member of a Cooperative/Collective without notarized written authorization of a parent or legal guardian. No person under eighteen (18) shall enter the Premises of the Cooperative/Collective unless accompanied by a parent or legal guardian;
- (Q) Physician services shall not be provided on the Premises.

“Physician services” does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site with additional permitting;
- (R) The Premises and building in which the Cooperative/Collective is located, as well as the operations conducted therein, shall fully comply with all applicable building codes, all applicable State and Federal environmental laws, the Americans with Disabilities Act, the Act, Program and Guidelines; and the Medical Marijuana Regulation and Safety Act;
- (S) The Cooperative/Collective shall not distribute, sell, dispense, or administer Marijuana or Marijuana products to anyone other than Qualified Patient members of the Cooperative/Collective and/or their Primary Caregivers;
- (T) The Cooperative/Collective shall keep adequate records of any Marijuana related activity, including conducting an inventory on the first business day of each week and recording the total quantity of each form of Marijuana on the Premises. These records shall be maintained for seven (7) years from the date created or longer if required by State or Federal law;
- (U) On the fifth day of each month, the Cooperative/Collective shall provide the City Manager with a written report containing the following information:
 - (1) Bills of lading and a description of all inventory shipments received (including those received by the Cooperative/Collective, weight of any cannabis flowers, edibles and concentrates) since prior report;
 - (2) The description and weight of inventory in the possession or control of the

Cooperative/Collective;

- (3) The number of Cooperative/Collective members;
 - (4) The total gross revenue received from prior month's sales; and
 - (5) A copy of any sales tax reports provided to the State Board of Equalization and any other taxing agencies;
- (V) The Cooperative/Collective shall not be operated within: a residence; within one thousand (1,000) feet of a school, recreation center or youth center; or within two hundred (200) feet of a public playground, park, child care or day care facility, or church. All distances shall be measured in a straight line, without regard to intervening structures or topography, from the nearest point of the building or structure in which the Cooperative/Collective is located to the nearest property line of those uses described in this Subsection;
- (W) Operations of the Cooperative/Collective shall not cease for more than ninety (90) calendar days;
- (X) The Cooperative/Collective shall provide the City, or allow the City inspection of, the security recordings, the activity logs, sales and revenue records, documents and any other required reports, and financial and sales data requested by the City;
- (Y) The Cooperative/Collective shall not be operated for profit.

Section 12A-6-Cultivation of Marijuana.

Other than Personal Use Cultivation as described in Subsection 12A-2(S) above, it is unlawful for any person(s) to cultivate and/or grow Marijuana, except as expressly provided herein:

- (A) Marijuana Cultivation License. The operation of a Cultivation Facility shall only be considered upon application and approval of a Marijuana Cultivation License. The Marijuana Cultivation License constitutes a revocable privilege, which shall be subject to revocation/suspension in the event that the Cultivation Facility, or any its Owners, Operators, managers, employees, agents, members or volunteers violate any provision of this Chapter, State law or regulations, or fails to pay any City Marijuana Business Tax, or other fees when due.
- (B) License Application. Each Cooperative/Collective that is in existence, open, and operating within the City as of December 25, 2014, and applies for and obtains a Cooperative/Collective License, may file an application for a Marijuana Cultivation License to operate a Cultivation Facility within the City. Each Cooperative/Collective may operate and maintain one (1) Cultivation Facility within the City, subject to the requirements of this Chapter, the City Code, and applicable State law. The application shall be filed only by the Owner(s) of the proposed Cultivation Facility with the City

Manager or his/her designee, along with any applicable fee to be set by the City Council by resolution, as may be amended from time to time. The application shall include the following information:

- (1) The name, address, and telephone number of the Cultivation Facility;
- (2) The name, address and telephone number of the Owner(s) applying for the Marijuana Cultivation License, along with a copy of an official, valid and unexpired government issued photo ID;
- (3) The name and address of the owner(s) of the real property upon, in, or from which the Cultivation Facility is to be operated. In the event the Owner(s) are not the legal owner(s) of the real property, the application shall be accompanied by a copy of a written and signed lease between the Owner(s) and the property owner(s) authorizing use of the premises as a Cultivation Facility, or, if no written lease exists, a written, notarized acknowledgement from the property owner(s) that the he/she/they have been advised and agree that a Cultivation Facility will be operated upon, in, or from the property;
- (4) Certification that the applicant, and/or any of the officers, directors, Owners or Operators of the Cultivation Facility have not been convicted of:
 - a. A homicide;
 - b. Within the preceding ten (10) years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
 - c. Within the preceding ten (10) years, any violation of subdivisions (d) or (e) of Health and Safety Code Section 11357, or Section 11361 and/or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code;
 - d. Within the preceding five (5) years, any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360;
 - e. Within the preceding five (5) years, any violation of the Compassionate Use Act, the Medical Marijuana Program Act, or the Medical Marijuana Regulation and Safety Act, or any other State law or Constitutional provisions regulating Marijuana.
- (5) Certification that the applicant, and/or any of its officers, directors, Owners, Operators, employees or agents is not a licensed physician making patient recommendations for Medical Marijuana pursuant to Section 11362.7;
- (6) An estimate of the size of the Cultivation Facility;

- (7) A site plan and floor plan of the premises denoting all areas on the premises, including storage, cultivation areas, lighting, signage, etc.
- (8) A security plan including the following measures:
 - a. Digital security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or Designee. The cameras shall be in use 24 hours per day, 7 days per week;
 - b. The Cultivation Facility premises shall be alarmed with an alarm system that is operated and monitored by a properly licensed security company. Any security personnel, armed personnel and armed security personnel of the Cultivation Facility shall have and possess on their person any required federal, State and local permits and licenses.
 - c. Entrance to the Cultivation area and any storage areas shall be locked at all times, and under the control of the staff of the Cultivation Facility;
 - d. The entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the City's lighting standards regarding the fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed;
 - e. All windows on the building that houses the Cultivation Facility shall be appropriately secured and all Marijuana securely stored;
- (9) A detailed description of the Cultivation Facility's operating procedures with regard to the following, as applicable:
 - a. Cultivation;
 - b. The transportation process;
 - c. Inventory procedures;
 - d. Quality control procedures;
- (10) Authorization for the City Manager or his/her designee to seek verification of the information contained in the application;
- (11) Evidence that the Cultivation Facility is or will be operating in strict accordance with State law, including the Act, the Program and the Guidelines, as well as the Medical Marijuana Regulation and Safety Act;

- (12) One (1) set of fingerprints for each applicant in a form satisfactory to the City Manager or his/her designee. The fingerprints shall be taken at a place designated by the City Manager or his/her designee, and any required fee for such fingerprinting shall be paid by the applicant;
 - (13) A waiver and release of the City, its officers, officials, employees, and agents from any and all legal liability related to or arising from the application for a Marijuana Cultivation License, the issuance of the Marijuana Cultivation License, or the enforcement of the conditions of the Marijuana Cultivation License, and/or the operation of the Cultivation Facility;
 - (14) A warning that Owners, Operators, managers, agents, volunteers, employees, and members of Cultivation Facility may be subject to prosecution under federal laws;
 - (15) A statement in writing by the applicant that he/she certifies under penalty of perjury that all information contained in the application is true and correct;
 - (16) Such other information as may be required by the City Manager or his/her designee to determine compliance with any other eligibility requirements for issuance of the license as specified by state or local law.
- (C) Issuance of a Marijuana Cultivation License. Within sixty (60) days following receipt of a completed license application, the City Manager or his/her designee shall grant a Marijuana Cultivation License if the Owner(s) of the Cultivation Facility have satisfied the requirements of this Chapter and all other applicable laws, including, but not limited to, the City's building, zoning, business, and health regulations, unless the City Manager or his/her designee determines any or more of the following to be true:
- (1) The applicant(s) have failed to provide information required by the license application or the application is otherwise deemed incomplete; or
 - (2) The applicant(s) have knowingly made a false statement or omission of fact in the application for the license; or
 - (3) The Cultivation Facility is not properly operating in strict compliance with State law and regulations, including the Act, the Program, and the Guidelines, and the Medical Marijuana Regulation and Safety Act;
 - (4) The applicant, any of the officers, directors, Owner(s) or Operator(s) of the Cultivation Facility have been convicted of:
 - a. A homicide;
 - b. Within the preceding ten (10) years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);

- c. Within the preceding ten (10) years, any violation of subdivisions (d) or (e) of Health and Safety Code Section 11357, or Section 11361 and/or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code;
 - d. Within the preceding five (5) years, any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360;
 - e. Within the preceding five (5) years, any violation of the Compassionate Use Act, the Medical Marijuana Program Act, or the Medical Marijuana Regulation and Safety Act;
- (5) The applicant, or any of its officers, directors, Owner(s), or Operator(s) is a licensed physician making patient recommendations for Medical Marijuana pursuant to Section 11362.7; or
 - (6) The Owner(s) and/or Operator(s), if individuals, have not attained the age of eighteen (18) years.

(D) Denial of License Application.

- (1) If a Marijuana Cultivation License is denied, the City Manager or his/her designee shall serve on the Owner(s) a written notice of denial within thirty (30) days of rendering the decision specifying the grounds for the denial and of the right to request a hearing in regard thereto.
- (2) The Owner(s) shall have the right to appeal from a decision by the City Manager or his/her designee to deny a Marijuana Cultivation License by filing with the City Clerk a written notice of appeal, specifying the grounds for such appeal, within ten (10) days after the decision has been served on the Owner(s). Such appeal shall be heard by the City Council within 120 days after the notice of appeal is received by the City Clerk. The Owner(s) shall be given not less than thirty (30) days written notice of the date, time and location of the appeal hearing. The City Council shall consider all relevant evidence at the hearing, may continue the hearing, and may require evidence and legal briefing as the Council determines may be helpful in addressing issues raised by the appeal. Not more than ninety (90) days following the conclusion of the hearing, the City Council shall issue a written decision as to whether the application shall be granted or denied. The written decision shall be served on the Owner(s) of the Cultivation Facility, with a copy served on the City Manager or his/her designee. The written decision of the City Council shall be final.

- (E) Inspections. The City may inspect the intended Cultivation Facility site and/or premises for suitability prior to issuing a Marijuana Cultivation License.

Section 12A-7-Regulations Applicable to Cultivation Facilities.

Except as otherwise specifically provided in this Chapter, the following regulations shall be applicable to all Cultivation Facilities operating within the City:

- (A) The Cultivation Facility shall not distribute, sell, dispense, or administer Marijuana out of its facility to the public. A Cultivation Facility shall not be operated or maintained as a retail Cooperative/Collective.
- (B) The Cultivation Facility shall operate in compliance with this Chapter, the Code and applicable resolutions, all State laws, including, but not limited to, the Act, the Program and the Guidelines, the Medical Marijuana Regulation and Safety Act, as well as any other State law or Constitutional provision regulating Marijuana, including, but not limited to, any standards, whether now or later adopted, related to:
 - (1) The use of pesticides;
 - (2) The identification of permitted Marijuana plants at the Cultivation Facility, including those for “unique identifiers”, if any;
- (C) The Cultivation Facility shall not violate any of the U.S. Department of Justice guidelines/priorities, including those prohibiting:
 - (1) Distribution of marijuana to minors;
 - (2) Providing revenue from the sale of marijuana to criminal enterprises, gangs and/or cartels;
 - (3) Diverting marijuana from a state where it is legal under state law to a state where it is illegal;
 - (4) Using marijuana activity as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
 - (5) Using or engaging in violence or use of firearms in the cultivation and/or distribution of marijuana;
 - (6) Contributing to drugged driving and/or the exacerbation of other adverse public health consequences associated with marijuana use;
 - (7) Growing marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and/or
 - (8) Possessing or use of marijuana on federal property.
- (D) The Cultivation Facility shall pay all legally required taxes and fees, including but not

limited to, any Marijuana Business Tax, and sales tax pursuant to state and local law, as well as all other City and state imposed taxes and fees;

(E) The Cultivation Facility shall not have any unpaid financial, fee, or tax obligation to the City that is not paid in full when due, including any assessed fines, penalties, taxes, business tax, fee, interest or other costs (collectively "unpaid tax obligations"). A Cultivation Facility shall not be in breach of this subsection if it enters into and fully performs per the terms of a written offer and compromise or other written settlement agreement with the City that satisfies any unpaid tax obligations. This subsection shall not deprive any Cultivation Facility of rights, if any, to appeal or seek judicial determination of the propriety of any amounts alleged by the City as unpaid tax obligations, and a Cultivation Facility shall not lose its Marijuana Cultivation License hereunder due to the pendency of any such appeal or judicial determination;

(F) A Cultivation Facility shall implement a security plan including the following measures:

(1) Digital security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the City Manager or Designee. The cameras shall be in use 24 hours per day, 7 days per week.

Recordings made by the security cameras shall be made available to the City Manager or Designee upon 24 hours' notice.

Nothing in this section shall compel a Cultivation Facility or require the City to voluntarily disclose or deliver said recording to any Federal government entity or agency absent a court order or subpoena;

(2) The Cultivation Facility premises shall be alarmed with an alarm system that is operated and monitored by a properly licensed security company. Any security personnel, armed personnel and armed security personnel of the Cultivation Facility shall have and possess on their person any required federal, State and local permits and licenses.

(3) Entrance to the Cultivation area and any storage areas shall be locked at all times, and under the control of the staff of the Cultivation Facility;

(4) The entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the City's lighting standards regarding the fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed;

(G) Indoor grow lighting systems shall:

(1) Be shielded to confine light and glare to the interior of the allowable structure;

and

- (2) Comply with the City Code, including the Building Code and the Fire Code;
- (H) The Cultivation Facility shall have ventilation and filtration systems installed that prevent Marijuana plant odors from exiting the interior of the structure or portion of the structure where Marijuana is cultivated. The ventilation and filtration system shall be approved by the building official and installed prior to commencing Cultivation within the allowable structure;
- (I) Cultivation shall be concealed from public view at all stages of growth and there shall be no exterior evidence of Cultivation occurring at the premises from a public right-of-way or from an adjacent parcel;
- (J) Cultivation shall not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to use or storage of materials, processes, products, or wastes;
- (K) Absolutely no advertising of the Cultivation Facility, Cultivation Facility activities, Marijuana, Marijuana products, etc. is allowed at any time;
- (L) Exterior signage is limited to site addressing only;
- (M) The Cultivation Facility shall implement a track and trace program approved by the City Manager or his/her designee, until such time as the Department of Food and Agriculture establishes a statewide program/requirement pursuant to Business and Professions Code section 19335, after which the Cultivation Facility shall comply with State law;
- (N) The Cultivation Facility shall keep adequate records of any Marijuana related activity, including conducting an inventory on the first business day of each week and recording the total quantity of each type of Marijuana on the Premises. These records shall be maintained for seven (7) years from the date created or longer if required by State or Federal law;
- (O) The Cultivation Facility shall not be operated within: a residence; within one thousand (1,000) feet of a school, recreation center or youth center; or within two hundred (200) feet of a public playground, park, child care or day care facility, or church. All distances shall be measured in a straight line, without regard to intervening structures or topography, from the nearest point of the building or structure in which the Cultivation Facility is located to the nearest property line of those uses described in this Subsection.

Section 12A-8-Outdoor Cultivation Prohibited. No outdoor Cultivation or outdoor growing of Marijuana, including Personal Use Cultivation as defined in Subsection 12A-2(S), shall be permitted within the City of Needles. Any Cultivation not inconsistent with State law, or this Chapter, as such laws may be amended from time to time, shall at all times occur indoors, in a

secure, locked and Fully Enclosed Structure that includes solid walls and a ceiling, roof or top, as consistent with all applicable State, County and City laws, regulations, ordinances and building codes.

Section 12A-9-Delivery.

A Cooperative/Collective that holds a valid Cooperative/Collective License, and which complies with all regulations related to the operation of a Cooperative/Collective, may Deliver Medical Marijuana to its Qualified Patients and/or Primary Caregivers within the City if:

- (A) All employees of a Cooperative/Collective delivering Marijuana or Marijuana products carry a copy of the Cooperative/Collective's current Cooperative/Collective License (as well as any State issued permit or license, when issued) authorizing those services with them during deliveries, and the employee's government-issued identification. The employee shall present the Cooperative/Collective License (as well as any State issued permit or license, when issued), upon request, to State and local law enforcement, employees of regulatory authorities, and other State and local agencies.
- (B) During Delivery, the Cooperative/Collective shall maintain a physical copy of the Delivery request and shall make it available upon request to the City and law enforcement officers. The Delivery request documentation shall comply with State and federal law regarding the protection of confidential information.

This Chapter does not permit a cooperative, collective, dispensary, or other Marijuana Business that is located outside the City from delivering Marijuana within the City, nor does it permit any stand-alone mobile delivery service not otherwise attached to a Cooperative/Collective; such delivery is expressly prohibited.

Section 12A-10-Licenses Non-Transferrable.

Any licenses issued under this Chapter are non-transferable. Upon a sale or transfer of any Cooperative/Collective or Cultivation Facility, or upon the sale or transfer of some or all of the interest of an Owner or Operator of any Cooperative/Collective or Cultivation Facility to a person who is not already an Owner or Operator of the Cooperative/Collective or Cultivation Facility, a new license for that purpose shall be required.

Section 12A-11-Alteration and Modification of Premises.

A licensee under this Chapter shall not make any physical change, alteration, or modification of the premises of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business that materially or substantially alters the licensed Premises from the plans approved. Material changes include, but are not limited to, an increase or decrease in the total square footage of the licensed Premises or the addition, sealing of, or relocation of a wall, common entryway, doorway, or other means of public ingress and/or egress to the licensed Premises.

Section 12A-12-License Renewal.

A License issued pursuant to the terms of this Chapter shall be valid for a term of one (1) year from the date of issuance. A license that has not expired and has not been suspended or revoked pursuant to Section 12A-13 "Revocation and Suspension of Licenses" may be renewed for another one-year period, on submittal of a written application to the City Manager, and payment of an application fee to be set by the City Council by resolution, as may be amended from time to time, no less than thirty (30) days prior to the license's expiration date.

Section 12A-13-Revocation and Suspension of Licenses.

In addition to any other remedy available to the City under this Code or state law, a License issued pursuant to this Chapter may be suspended or revoked by the City Manager or his/her designee. Upon suspension or revocation of a license issued hereunder, the Cooperative/Collective and/or Cultivation Facility shall immediately cease operation. If the Operator is not also the legal owner(s) of the real property on which the Cooperative/Collective or Cultivation Facility is situated, notice of such suspension or revocation shall be provided by the City Manager or his/her designee to the owner(s) of record of the property as shown on the latest county recorder's official records.

(A) Grounds for Revocation and Suspension.

All Cooperative/Collective and Cultivation Facility Owners and Operators shall be deemed to know and understand the requirements and prohibitions of this Chapter. The Cooperative/Collective and/or Cultivation Facility Owner(s) and/or Operator(s) shall be responsible for the conduct of all of its employees, agents, independent contractors, and other representatives, while on the premises of the Cooperative/Collective or Cultivation Facility.

Any license issued pursuant to this Chapter may be suspended or revoked by the City Manager or his/her designee after a hearing, where it is found by a preponderance of the evidence that any of the following have occurred, on even a single occasion:

- (1) The person(s) to whom the license was issued, or any person employed or retained by the Cooperative/Collective or Cultivation Facility has been found to have violated any provision of this Chapter, the Act, the Program, the Medical Marijuana Regulation and Safety Act, or any other applicable State law; or
- (2) The licensee, or any of its officers, directors, Owners, Operators, employees or agents is a licensed physician making patient recommendations for Medical Marijuana pursuant to Section 11362.7; or
- (3) The licensee, or any of its officers, directors, or Owners has engaged in fraud or misrepresentation or has knowingly made a misstatement of fact in seeking or obtaining a City permit or license for the Cooperative/Collective or Cultivation Facility; or

- (4) The licensee has continued to operate the Cooperative/Collective or Cultivation Facility after the license issued therefore has been suspended or expired; or
- (5) The licensee, or any of the officers, directors, Owner(s) or Operator(s) of the Cooperative/Collective or Cultivation Facility have been convicted of:
 - a. A homicide;
 - b. Within the preceding ten (10) years, any serious or violent felony listed in Penal Code Section 1192.7(c) or Section 667.5(c);
 - c. Within the preceding ten (10) years, any violation of subdivisions (d) or (e) of Health and Safety Code Section 11357, or Section 11361 and/or Articles 1, 3, 5, 6, or 7 of Chapter 6 of Division 10 of the Health and Safety Code;
 - d. Within the preceding five (5) years, any felony violation of Health and Safety Code Section 11358, Section 11359 or Section 11360;
 - e. Within the preceding five (5) years, any violation of the Compassionate Use Act, the Medical Marijuana Program Act, or the Medical Marijuana Regulation and Safety Act, or any other State law or Constitutional provisions regulating Marijuana.

(B) Notice of Revocation or Suspension.

The City Manager or his/her designee, before revoking or suspending any license issued hereunder, shall provide the Owner(s) with written notice of the alleged grounds for suspension or revocation and of a right to request a hearing in regards thereto.

(C) Hearing and Appeal.

The Owner(s) shall have the right to appeal from a decision by the City Manager or his/her designee to suspend or revoke a license issued hereunder by filing with the City Clerk a written notice of appeal, specifying the grounds for such appeal, within ten (10) days after the decision has been served on the Owner(s). Such appeal shall be heard by the City Council within 120 days and with not less than thirty (30) days written notice to the Owner(s) of the date, time and location of the hearing. The City Council shall consider all relevant evidence at the hearing, may continue the hearing, and may require such evidence and legal briefing as may be helpful in addressing issues raised by the appeal.

(D) Notice of Decision.

Within a reasonable time, but not more than ninety (90) days following the conclusion of the hearing, the City Council shall issue a written decision as to whether the license shall be revoked or suspended. The written decision shall be served on the license holder.

Section 12A-14-Inspection.

The City Manager or his/her designee shall have the right to enter the Cooperative/Collective and/or Cultivation Facility from time to time for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter and all laws of the City and State of California upon 24 hours' notice.

Section 12A-15-CEQA Compliance.

Any applicant for a Cooperative/Collective License, Marijuana Cultivation License, and/or zoning or conditional use permit, as applicable, shall be responsible for all costs associated with the preparation of all initial studies, negative declarations, environmental impact reports and/or other environmental documents or studies, if any, including administrative costs, necessary for the approval of such Cooperative/Collective License, Marijuana Cultivation License, zoning or conditional use permit, as applicable, or the establishment or operation of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business, as well as the costs associated with the City's use of a third party reviewer to ensure application completeness.

Section 12A-16-Limitation on City Liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to approving any Cooperative/Collective License and/or Marijuana Cultivation License, or any zoning permit or conditional use permit, as applicable, or the operation of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business. As a condition of approval under this Chapter, any applicant or its legal representative shall:

- (A) Execute an agreement to defend (with legal counsel of the City's choice), indemnify and hold the City harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the permitting, licensing, approval and/or operation of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business; and
- (B) Maintain insurance in the minimum amount of \$1 million per claim and \$2 million in the aggregate; and
- (C) Name the City as an additional insured on all City required insurance policies; and
- (D) Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Cooperative/Collective License and/or Marijuana Cultivation License or the operation of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business.
- (E) Agree to reimburse the City for any court costs and attorneys' fees that the City may be required to pay as a result of any legal challenge (or federal enforcement action) related to the City's approval or regulation of a Cooperative/Collective License and/or Marijuana

Cultivation License, or the operation of a Cooperative/Collective, Cultivation Facility, or other Marijuana Business. The City may, at its sole discretion, choose its own legal counsel and/or participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligations hereunder.

Section 12A-17-Enforcement.

- (A) Failure to comply with the provisions of the Chapter, the City Code, or any other State or City law, shall result in the license issued hereunder being suspended or revoked pursuant to this Chapter.
- (B) Any operation of the Cooperative/Collective, Cultivation Facility, or Delivery/Mobile Cooperative/Collective in non-compliance with this Chapter shall constitute a public nuisance and violation of the Municipal Code and may be enforced through any lawful remedy, including, but not limited to, the provisions of this Chapter and the City of Needles Municipal Code. Any non-compliance with this Chapter, the City Code or ordinances, State law, the Act, the Program or the Guidelines, or the Medical Marijuana Regulation and Safety Act, shall constitute a public nuisance and may be enforced through any lawful civil and/or criminal remedy, including but not limited to a restraining order, temporary and permanent injunctive relief, and other relief set forth in this Chapter, the City Code and/or State law.
- (C) Any person violating any of the provisions of this Chapter or any provisions or part hereof, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of up to one thousand dollars (\$1,000.00) per day per violation or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. The conviction and punishment of any person for failure to pay a required tax shall not excuse or exempt such person from any civil action for violation of this Chapter or other City law. No civil action shall prevent criminal prosecution for any violation of the provisions of this Chapter or any State or City law.
- (D) In lieu of issuing a misdemeanor citation, the City may reduce the penalty to an infraction or issue an administrative citation, and/or assess an administrative fine up the maximum amount(s) permitted by law and the Code.
- (E) Each violation of this Chapter shall constitute a separate violation and each violation may be charged as a separate count in the event of administrative or criminal enforcement action.

Section 12A-18-Recreational Marijuana.

In the event that the use of Marijuana for recreational purposes is legalized or otherwise granted immunity from prosecution within the State, or by the Federal Government, the provisions in this Chapter related to Marijuana for medical use shall apply equally and with full force and effect to the use of Marijuana for recreational purposes, to the extent not superseded by State or Federal law.

SECTION 6. Part III Article VI, Section 96.01 "Table of Permissible Uses" is hereby amended to add Section 17.00 "Medical Marijuana," as follows:

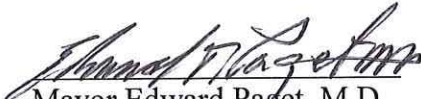
Uses	R1	R2	R3	CR	C1	C2	C3	M1	M2	P
17.00 MEDICAL MARIJUANA										
17.10 Cooperatives/ Collective- existing						Z	Z			
17.20 Cooperatives/ collectives-new					C	C	C	C	C	
17.30 Cultivation Facilities					C	C	C	C	C	

SECTION 7. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Needles, California, approves an amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Needles, California, held on the 12th day of January, 2016, by the following roll call vote:

AYES: COUNCILMEMBERS EVANS, FRAZIER, WILLIAMS, DARCY AND
 NOES COUNCILMEMBER GUDMUNDSON RICHARDSON
 ABSENT NONE
 ABSTAIN NONE


 Mayor Edward Paget, M.D.

Attest: 
 City Clerk Dale Jones, CMC

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the 26th day of January, 2016.

AYES: Council Members Gudmundson, Evans, Frazier, Williams
NOES: None Darcy and Richardson
ABSENT: None
ABSTAIN: None



Mayor Edward Paget, M.D.

(Seal)

Attest: 

City Clerk Dale Jones, CMC

Approved as to form:



City Attorney John Pinkney