



City of Needles, California Request for City Council Action

CITY COUNCIL NPUA RDA

Regular Special

Meeting Date: December 14, 2021

Title: City Council Ordinance No. 647-AC
Amending Sections of Chapter 12A of the Needles Municipal Code Related to
No Longer Accepting Applications for the Issuance of Conditional Use Permits
for Retail Cannabis Businesses

Background: On October 26, 2021, the City Council gave direction to staff to work with the City Attorney to draft an Ordinance that would no longer allow the City to accept applications for the issuance of Conditional Use Permits for Retail Cannabis Businesses.

Applications that are submitted prior to the effective date of this ordinance and which the City deems complete shall be processed by the City. However, the acceptance of an application under this provision does not guarantee that a Conditional Use Permit will be issued, and no vested rights are afforded to an applicant by the City's acceptance of a timely application. Upon the acceptance of an application hereunder, the City will process the application. If it is determined that an application submitted prior to the effective date of this ordinance is incomplete, the application will be rejected. If an application is submitted before the effective date of the ordinance, but ultimately rejected as incomplete following the effective date of the ordinance, the applicant will not be permitted to resubmit the application.

Complete applications are application that contain all information and documentation that is required by the City and/or the City Code for submittal of an application for a Retail Cannabis Business Conditional Use Permit, including but not limited to the application and any approvals, site plans, documentation, and CEQA checklist, and all application and other fees are paid in full.

Notwithstanding the limitations above and provisions of Section 12A-4, requiring Retail Cannabis Businesses to have been existing, open and operating within the City within a fixed stationary building on or before December 25, 2014 prior to issuance of a Cannabis Retail License, in the event the number of Conditional Use Permits issued to Retail Cannabis Businesses in the City drops below six (6), the City Council may, but is not obligated to, amend this ordinance to provide for a process to consider complete applications and license additional Retail Cannabis Businesses, provided the total number of Retail Cannabis Businesses operating within the City at any given time does not exceed six (6).

History of Dispensaries:

- 6 dispensaries opened without permits in 2010. The Council immediately established a ban on them.
- In 2012 the voters passed the Marijuana Tax. The existing dispensaries were granted immunity from the ban if they paid the Marijuana Tax while the City was developing an ordinance regulating them.
- In 2014 the Sheriff's Office raided all 6 as unpermitted which led to 2 permanently closing.
- In 2015 the City developed the original Medical Marijuana regulations (Ordinance 12-A). That initial ordinance did not include any provisions to permit a new dispensary beyond the four that pre-existed the ordinance: THC, H Street, Herbarium, and BudFarmacy.
- In December 2019 Councilor Tom Darcy requested that the Council amend the ordinance to allow one new dispensary on the west end of town; the Council denied the request. #5

- May 26, 2020, the Council amended the ordinance to allow new dispensaries upon application. No limit as to the number of new dispensaries was set, instead their stated intent at the time was to rely on the marketplace to determine a dispensary's viability. The process chosen to allow a dispensary is through a Conditional Use Permit which is discretionary as opposed to an outright use. The Conditional Use Permit process allows the Council to deny any application if they fail to meet all of the requirements for a Conditional Use Permit, such as neighborhood compatibility or adverse impact to nearby property values. Likewise, if an application does meet all of the criteria there is a presumption that they should get the permit.
- Since 2020 10 total dispensaries have been permitted; including the original 4. Of those 10, 5 are operating as of today. Two are in permitting review.

The revenue chart since the change to allow additional dispensaries is attached. Of note is that while there are seasonal and monthly changes, the revenue trend is generally flat meaning that the additional dispensaries are not increasing the overall revenue.

What will change the overall revenue is an increase in customers such as population growth. Population estimates from the Census Bureau are that in 2019 there was 4976 people. Population in 2021 is estimated at 4974. These are estimates. The actual official population for 2020 will be released by the Census Bureau once the census data is released.

The California Department of Finance is responsible for determining official population for cities and counties for purposes of state-shared revenue distribution (gas tax, CDBG, etc.). They report the following:

COUNTY/CITY	4/1/2010	1/1/15	1/1/16	1/1/17	1/1/18	1/1/19	1/1/20	1/1/21
NEEDLES	4,844	5,175	5,271	5,305	5,369	5,413	5,382	5,353

Fiscal Impact: Unknown if more dispensaries will increase overall dispensary revenue or merely redistribute it amongst the dispensaries.

Sylvia Miledi AM

Recommendation: Approve Ordinance No. 647-AC Amending Sections of Chapter 12A of the Needles Municipal Code Related to No Longer Accepting Applications for the Issuance of Conditional Use Permits for Retail Cannabis Businesses

Submitted By: Patrick Martinez, Assistant City Manager/Development Services

City Management Review: RICK

Date: 12/9/21

Approved: <input type="checkbox"/>	Not Approved: <input type="checkbox"/>	Tabled: <input type="checkbox"/>	Other: <input type="checkbox"/>
			Agenda Item: <u>5</u>

ORDINANCE NO. 647-AC

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF NEEDLES, CALIFORNIA, AMENDING
SECTIONS OF CHAPTER 12A OF THE NEEDLES
MUNICIPAL CODE RELATED TO RETAIL CANNABIS
BUSINESSES

THE CITY COUNCIL OF THE CITY OF NEEDLES DOES ORDAIN AS FOLLOWS:

SECTION 1. 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 2. 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 3. 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 Cannabis 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 4. The City Council hereby amends Municipal Code Section 12A-32 “Additional Retail Cannabis Business” to read as follows:

Section 12A-32. Additional Retail Cannabis Business.

Upon the effective date of this ordinance, the City will no longer accept applications for the issuance of Conditional Use Permits for Retail Cannabis Businesses. Applications that are submitted prior to the effective date of this ordinance and which the City deems complete shall be processed by the City. However, the acceptance of an application under this provision does not guarantee that a Conditional Use Permit will be issued, and no vested rights are afforded to an applicant by the City’s acceptance of a timely application. Upon the acceptance of an application hereunder, the City will process the application. If it is determined that an application submitted

prior to the effective date of this ordinance is incomplete, the application will be rejected. If an application is submitted before the effective date of the ordinance, but ultimately rejected as incomplete following the effective date of the ordinance, the applicant will not be permitted to resubmit the application.

For the purposes of this section, “complete” application means that the application contains all information and documentation as required by the City and/or the City Code for submittal of an application for a Retail Cannabis Business Conditional Use Permit, including but not limited to the application and any approvals, site plans, documentation, and CEQA checklist, and all application and other fees are paid in full.

Notwithstanding the limitations above and provisions of Section 12A-4, requiring Retail Cannabis Businesses to have been existing, open and operating within the City within a fixed stationary building on or before December 25, 2014 prior to issuance of a Cannabis Retail License, in the event the number of Conditional Use Permits issued to Retail Cannabis Businesses in the City drops below six (6), the City Council may, but is not obligated to, amend this ordinance to provide for a process to consider complete applications and license additional Retail Cannabis Businesses, provided the total number of Retail Cannabis Businesses operating within the City at any given time does not exceed six (6).

Any additional Retail Cannabis Business licensed under this Section shall comply with all applicable application requirements and regulations provided by this Chapter or the Municipal Code, and all State and/or local laws or regulations regulating Retail Cannabis Business, as may be amended from time to time.

SECTION 35. 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 14 day of December 2021, by the following roll call vote:

AYES:
NOES
ABSENT
ABSTAIN

Mayor Jeff Williams

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 11 day of January, 2022.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Jeff Williams

(Seal)

Attest: _____
City Clerk Dale Jones, CMC

Approved as to form:

City Attorney John Pinkney