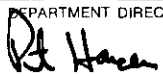




ITEM NO.	9.9(a)
MEETING DATE	11/17/09
APPROVED BY	
DEPARTMENT DIRECTOR	 Peter Hansen
	 Richard A. Duvernay
CITY MANAGER	 Kurt Starman

CITY OF REDDING

REPORT TO CITY COUNCIL

DATE: November 10, 2009

CODE: M-020; A-050-060

FROM: Peter Hansen, Chief of Police
Richard A. Duvernay, City Attorney

SUBJECT: Re-introduce Ordinance 2445 amending Title 6 (Business Taxes, Licenses and Regulations) by adding Chapter 6.12 (Medical Marijuana Cooperatives and Collectives) Relating to Permitting and Regulating Medical Marijuana Collectives and Cooperatives

Recommendation

It is recommended that the City Council re-introduce Ordinance 2445 containing proposed amendments to Title 6 (Chapter 6.12) of the Redding Municipal Code that will create regulations relative to the establishment and operation of medical marijuana cooperatives and collectives within the City.

1. Find that the proposed action is not subject to the provisions of the California Environmental Quality Act (CEQA) since it is not a project as defined by CEQA.
2. Approve the attached Ordinance, offering the Ordinance for first reading by title only, and authorize the City Clerk to publish a summary ordinance.

Background

Ordinance No. 2445 was introduced by the City Council on October 20, 2009. (See attached staff report which accompanied the item.) However, when the ordinance was presented to Council on October 26, 2009, for adoption, a majority vote of the Council was not achieved to either adopt or defeat adoption of the ordinance. A number of questions were raised by Council Members and members of the public on October 26, 2009.

Since October 26, 2009, the Chief of Police and City Attorney have spent many hours researching the law and the operation of medical marijuana collectives and cooperatives. The Police Chief and City Attorney have taken the opportunity to consult with many "experts," both medical marijuana advocates and opponents. Meetings and phone consultations have been held with owners of collectives and cooperatives here in Redding. As a result, the Police Chief and the City Attorney remain convinced that banning of medical marijuana or legitimate collectives or cooperatives in the City of Redding could be challenged in court and would be overturned. However, strict regulation is very much needed to ensure that medical marijuana collective operations and medical marijuana use is not stretched and abused beyond the intent and the letter of the law.

If the attached Ordinance is re-introduced, the City of Redding will have on the books one of the most comprehensive medical marijuana ordinances in the state. These regulations would ensure that seriously ill patients get access to marijuana as recommended by their doctor, but that abuses are not occurring. The balance of this report describes the changes being proposed in the Ordinance offered for re-introduction and the reasons for those recommended changes. While many of these changes could have been incorporated into the discretion vested with the Police Chief to approve operations plans, the Police Chief

and City Attorney believe it would be best for City Council to consider and either endorse or reject these policies as a part of the Code and at a public meeting where all stakeholders can share their opinions.

PROPOSED CHANGE 1: Change the definition of a collective (for purposes of obtaining a permit) to a place where ten or more patients associate instead of "one or more."

REASON: The permitting requirements are intended to regulate storefront facilities and not use of medical marijuana in residential homes.

PROPOSED CHANGE 2: Membership as a qualified patient shall be restricted to only those patients with a *written recommendation* from a doctor recommending or approving a specific quantity of dried marijuana for a specific period of time not to exceed one year. Recommendations not complying with this requirement issued prior to December 31, 2009, shall be brought into compliance no later than January 1, 2011.

REASON: Some doctors are writing recommendations or approving use of medical marijuana without any quantified limitation thus leaving it entirely to the discretion of the patient to obtain as much marijuana as they want and to self-dose in any amount the patient chooses. This practice is inconsistent with the practice of doctors in prescribing any other drug or medicine and is subject to abuse. High quality dried cannabis contains levels of THC between 15% and 20%, and doctors should be able to prescribe a quantity of *medicine reasonably necessary* to address the medical condition being treated.

PROPOSED CHANGE 3: The membership application and approval process shall include written authorization from any member who is a Qualified Patient consenting to allow the collective or cooperative and the City of Redding to verify the member's written recommendation from his or her doctor.

REASON: Fraudulent recommendations is a real issue. The City's permitting structure will require the collective or cooperative to verify the doctor's recommendation. The City's role as regulator is to audit or conduct spot checks to ensure that the collective owner/operator is complying with the conditions of the permit and verifying that members have the required recommendation. The City has no interest in knowing what illness supported the recommendation from the Doctor.

PROPOSED CHANGE 4: The membership application and approval process shall include a statement from any member who is a Qualified Patient or Person with Identification Card that they do not belong to any other collective or cooperative in the County of Shasta. No member may be admitted for membership into a collective or cooperative as a Qualified Patient or Person with Identification Card in the City of Redding if they belong as a Qualified Patient or Person with Identification Card to another collective or cooperative in the County of Shasta.

REASON: With any other medicine, patients cannot get the same prescription filled at multiple pharmacies. To do so would directly violate the doctor's orders. This restriction is reasonable to protect against abuse.

PROPOSED CHANGE 5: A Cooperative or Collective shall not cultivate marijuana on the premises and may only sell or distribute dried marijuana to its members consistent with quantities recommended or approved for patient use.

REASON: The thresholds established by the Legislature for immunity from prosecution for possession of six mature plants or twelve immature plants may be appropriate for caregivers or members of collectives who are growing and supplying dried product to collectives for use of others. However, any single mature plant can yield between one and three pounds of processed marijuana. Prop 215 and the state medical marijuana program is intended to facilitate providing needed medicine to seriously ill patients as recommended or approved by a doctor. Doctors prescribe quantities of medicine, they do not prescribe the raw material to make medicine. As the facilitator between the doctor and patient, it is reasonable to expect a collective to operate in a manner that only dried marijuana is distributed as recommended by the patient's doctors. Otherwise, the dispensing of plants to grow unlimited amounts of medicine is ripe for abuse.

PROPOSED CHANGE 6: A Medical Marijuana Cooperative or Collective shall not store more than Two Hundred Dollars (\$200.00) in cash reserves overnight on the premises. ~~and shall make at least one (1) daily bank drop that includes all cash collected on that business day.~~

REASON: A daily bank drop may or may not be necessary on any given day.

PROPOSED CHANGE 7: Every permit issued shall contain a condition requiring the applicant to execute an agreement with the City whereby the applicant agrees to defend and indemnify the City from any civil liability arising from a lawsuit filed by any third person against both the collective and City arising from the operations of the collective or cooperative.

REASON: Operating a collective or cooperative is a high risk activity, and, consistent with other high risk activities permitted by the City (e.g. airshow, special events, etc.), it is reasonable for the private party sponsoring and promoting the activity and in sole position to control it to protect City taxpayers from potential liability.

PROPOSED CHANGE 8: Adding a grounds for suspending the permit if the Legislature or the courts interpret or change the law in a manner that precludes the operation of the collective or cooperative such that the operation plan submitted with the permit is unlawful (e.g. if collective is operating without caregiver relationships and caregiver relationship through the cooperative is mandated by law).

REASON: The law is still evolving. Courts or the Legislature may interpret or change the law and the City should reserve the right to suspend the permit pending changes to bring operations into conformance with the law.

Issue

Does the City Council wish to re-introduce an Ordinance establishing a permitting and regulatory process for regulating Medical Marijuana Collectives and Cooperatives?

Alternatives; Implication of Alternatives

1. Re-introduce the Ordinance by waiving a full reading and introduction by title containing changes from the previously introduced ordinance as set forth in this report relating to regulating Medical Marijuana Collectives and Cooperatives and Operation of Medical Marijuana Collectives. (**Staff Recommendation**)
2. Do not re-introduce the Ordinance No. 2445 and provide staff with alternative direction.

Fiscal Impact

Cost neutral. If adopted, staff intends to process an amendment to the City's Master Fee Schedule to establish a permit fee which recover the costs of processing and administering permits issued to operate collectives or cooperatives. It is anticipated the permit fee will be approximately \$800.

Conclusion

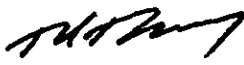

It is recommended that the City Council re-introduce the attached Ordinance.

Attachment

Staff Report from meeting of 10/20/09 when Ordinance No 2445 was first introduced
Draft of revised Ordinance No. 2445 offered for re-introduction.

RD/sel

c: Jim Hamilton, Development Services Director

ITEM NO.	9.9(a)
MEETING DATE	October 20, 2009
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

CITY OF REDDING
REPORT TO CITY COUNCIL

DATE: October 8, 2009
L-070/A-050-270

FROM: Peter Hansen, Chief of Police
Rick Duvernay, City Attorney

SUBJECT: Council Consideration re an Ordinance of the City of Redding Amending Title 6 (Business Taxes, Licenses, and Regulations) by Adding Chapter 6.12 (Medical Marijuana Cooperatives and Collectives) Relating to Permitting and Regulation of Medical Marijuana Cooperatives and Collectives

Recommendation

It is recommended that the City Council approve the proposed amendments to Title 6 (Chapter 6.12) of the Redding Municipal Code that will create regulations relative to the establishment and operation of medical marijuana cooperatives and collectives within the city. Currently, there are no regulations in place which would allow for the reasonable and appropriate regulation of these facilities. Staff recommends the City Council review the attached ordinance provisions, make any changes as determined necessary, and then:

1. Find that the proposed action is not subject to the provisions of the California Environmental Quality Act (CEQA), since it is not a project as defined by CEQA.
2. Approve the attached ordinance, offering the ordinance for first reading by title only, and authorize the City Clerk to publish a summary ordinance.

Background

In 1996, the voters of the State of California approved Proposition 215, better known as "The Compassionate Use Act," which was codified as Health and Safety Code Section 11362.5, et seq. The intent of the act was to enable persons suffering from serious illness to obtain, use, and cultivate marijuana for medical use under limited circumstances. Proposition 215 did not legalize marijuana, but instead created an exemption from prosecution under state law for those who are either qualified patients or qualified caregivers of patients.

On January 1, 2004, Senate Bill 420 (Health and Safety Code Section 11362.7, et seq.) became effective. Its purpose was to clarify the scope of the act and to provide cities and counties with the ability to adopt regulations to govern the operations of medical marijuana collectives and cooperatives, including the dispensaries where they provide for their members. Any individual operating a place of business for the purpose of unlawfully selling, giving away, or using any controlled substance contrary to state law remains subject to prosecution.

- *Possession of Medical Marijuana*

Qualified patients and primary caregivers may possess 8 ounces of dried marijuana and may maintain no more than 6 mature or 12 immature plants per qualified patient. However, if "a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs." Cities and counties also may adopt regulations that allow qualified patients or primary caregivers to possess medical marijuana in amounts that exceed the Medical Marijuana Program's (MMP) possession guidelines

The City has received a multitude of inquiries regarding the establishment of medical marijuana "dispensaries" in the past several months, and there are, at last count, approximately 20 such businesses that have been established within the city limits or in the surrounding area. To date, there have been minimal complaints regarding the actual operation of these facilities. However, many of the recent requests for zoning clearances involve the combining of dispensaries with other retail services, including tattooing, smoking pipes, adult materials, and other items unrelated to the provision of medical marijuana.

Attorney General's Guidelines

The Attorney General released Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (Guidelines) in August 2008. Section IV of the Guidelines includes specific guidelines for collectives and cooperatives. A copy of the Guidelines is attached.

- *Dispensaries vs. Collectives and Cooperatives*

Although medical marijuana "dispensaries" have been operating in California for years, dispensaries, as such, are not recognized under the law. The Attorney General's Guidelines state, "Dispensaries that merely require patients to complete a form designating the business owner as their primary caregiver, and then offering marijuana in exchange for cash 'donations', are likely unlawful."

However, a properly organized and operated collective or cooperative that dispenses medical marijuana through a storefront may be lawful under California law. Collective or cooperative includes any facility or location where the primary purpose is to dispense medical marijuana that has been recommended by a physician and where medical marijuana is made available to, or distributed by or to, a primary caregiver or a qualified patient in accordance with California Health and Safety Code Section 11362.5, et seq.

The main difference between a collective and cooperative is that a cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members (California Corporations Code Sections 12201, 12300). No business can legally call itself a "cooperative" or "co-op" unless it is properly organized and registered as such under the Corporations and Food and Agriculture Code (Id. Section 12311(b)).

Neither collectives nor cooperatives are allowed to operate for profit. In the case of medical marijuana, they are intended to facilitate the collaborative efforts of patient and caregiver members,

including the allocation of costs and revenues. In 2007, the California State Board of Equalization (BOE) confirmed its policy of taxing medical marijuana transactions with state sales tax, as well as its requirement that businesses engaging in such transactions hold a Seller's Permit.

Proposed Ordinance

Staff is *not* recommending a ban on medical marijuana businesses in the city, since the electorate's decision in this regard appears to be clear. Rather, we are recommending that the Council establish permit requirements to address the potential health and safety issues that may arise from their operations, since they distribute a drug with a high potential for abuse or diversion.

The framework of the proposed ordinance is similar to that taken in other areas. In some cases, the state has established statewide mechanisms to address potential problems—for example, the control of alcohol and the issuance of liquor licenses. In other areas, the state has provided guidance but left the field generally open to local administrative controls, which is the case with cardrooms and pawnshops.

The proposed ordinance establishes the Police Department as the permitting authority for the City and includes provisions addressing the following major topic areas:

- Completion of a permit application process would be necessary, including criminal background-check requirements for members who will be involved in the direct management or distribution of medical marijuana through the collective or cooperative.
- Definitions for a "medical marijuana cooperative and collective" and "primary caregiver," which is someone who consistently provides for the health, safety, or housing of a qualified patient.
- Operation and reporting requirements to ensure that marijuana is only distributed to those with a valid recommendation from a physician. Patients must have a written or verbal *recommendation* for medical marijuana from a licensed physician. Physicians may not prescribe marijuana because the federal Food and Drug Administration regulates prescription drugs; and under the Controlled Substances Act (CSA), marijuana is a Schedule I drug, meaning that it has no recognized medical use.
- Consistent with the requirements of the Compassionate Use Act, the ordinance stipulates that medical marijuana may not be sold for profit.
- Requirements for security monitoring for the protection of the employees and patrons and establishing reasonable hours of operation: 9 a.m. to 11 p.m., Monday through Saturday, and 9 a.m. to 7 p.m. on Sundays.
- Prohibition of the use of medical marijuana on-site and the cultivation of marijuana on-site.
- Prohibition on the sales of items unrelated to the primary activity of providing medical marijuana to members of the collective or cooperative. This will help ensure that the "nonprofit" intent of the Compassionate Use Act will be honored.

- Basic separation requirements from schools and other locations that encourage the congregation of youth. The proposed ordinance states that a collective or cooperative may not be located within 300 feet of a residential district; 1,000 feet of a school, day-care center, day-care home, recreation center, youth center, library, or a public park; or on a parcel located within 1,000 feet of another collective or cooperative. It also recognizes that there are existing facilities that do not meet the proposed location restrictions. While all facilities, including facilities that are currently in operation, will be required to have a valid permit and to comply with the ordinance provisions, they would be "grandfathered" into their current locations.
- The permit approved by the Chief of Police is valid for one year, and it must be renewed annually.

The draft ordinance does not include a limitation on the number of dispensaries for collectives or cooperatives or the number of permits that may be issued in the city. Some communities have taken the tact of establishing a simple numeric limit on dispensaries; however, there is currently no way to measure the need for medical marijuana among the local population that would allow the crafting of a rational limit on the number of permits. It is likely that enforcement of the proposed permitting requirements, including the limitation on retail sales of unrelated items, reporting, and security requirements and the requirement that such facilities operate as nonprofits for the benefit of the members, will eliminate a proliferation of dispensaries that do not have the intent of complying with the Compassionate Use Act.

Banning Dispensaries. Some communities have chosen to ban, or severely regulate, collectives and cooperatives from operating storefront dispensaries for medical marijuana distribution. Court challenges to these bans have been made, and a court decision on the City of Anaheim's regulations should result in a decision sometime in December or January on the concept of bans. The attached survey conducted by staff indicates that 31 of the 52 cities that responded to the survey have banned dispensaries (Attachment "C").

Issue

Should the City Council approve the attached ordinance establishing reasonable regulations to govern the operations of medical marijuana collectives and cooperatives within the city limits?

The proposed ordinance involves establishment of administrative procedures relative to the operation of medical marijuana collectives and cooperatives within the City of Redding. The unregulated proliferation and operation of such facilities creates the potential for security issues that may require additional police services, and they can create negative impacts to other businesses and residences from odors, loitering, noise, and other activity associated with their operation, as demonstrated in the available literature on the topic.

Environmental Determination

Adoption of this ordinance is exempt from CEQA requirements in that it can be seen with certainty that there is no possibility that the regulatory activity will have a significant effect on the environment in accordance with Guidelines Section 15061(b)(3).

Alternatives; Implication of Alternatives

1. Determine that the proposed amendments to the Redding Municipal Code are exempt from CEQA, and offer the attached ordinance for first reading by title only. The ordinance will become effective 30 days after adoption. ***(Staff Recommendation)***
2. Determine that the proposed amendments to the Redding Municipal Code are exempt from CEQA and offer the attached ordinance for first reading by title only, with *modifications* as may be determined necessary by the City Council. The ordinance will become effective 30 days after adoption.
3. Determine not to adopt the attached ordinance at this time, and provide other direction to staff.

Fiscal Impacts

Approval of the attached ordinance will have limited fiscal impact on the City's revenues. Distribution and sale of medical marijuana to qualified individuals is subject to state sales tax requirements and the ordinance establishes requirements to track sales. The cost of administering the permit program will be borne by applicants via initial application fees and by yearly renewal fees. Should the Council decide to move forward with the ordinance, staff will return with the necessary amendments to the City's master fee resolution.

Conclusion

Currently, new medical marijuana collectives and collaboratives are reviewed in the same manner as a retail pharmacy. A pharmacy is allowed without discretionary review (ministerial action) in most commercial and office districts of the city, as long as the business is locating in an existing commercial building that meets Zoning and Building Code requirements for commercial uses. Staff believes that adopting regulations to govern the operations of the medical marijuana business is likely to reduce or eliminate a proliferation of "for-profit" medical marijuana dispensaries. In turn, reasonable regulations will protect legitimate collectives and cooperatives and their members from the negative effects of unscrupulous business practices that violate the spirit and intent of the act.

Attachment

- NOT INCLUDED
- A. Draft of Proposed Ordinance
 - B. Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use
 - C. Listserve Response re local jurisdiction regulation of medical marijuana facilities

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF REDDING AMENDING TITLE 6 (BUSINESS TAXES, LICENSES AND REGULATIONS) BY ADDING CHAPTER 6.12 (MEDICAL MARIJUANA COOPERATIVES AND COLLECTIVES) RELATING TO PERMITTING AND REGULATION OF MEDICAL MARIJUANA COOPERATIVES AND COLLECTIVES

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, entitled the Compassionate Use Act of 1996, codified as Health and Safety Code Section 11362.5, *et seq.*, which created a limited exception from state criminal liability under Health and Safety Code sections 11357 and 11358 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, California state legislature Health and Safety Code section 11362.7, *et seq.* (Medical Marijuana Program), clarifies the scope of the Compassionate Use Act and allows cities and counties to adopt and enforce rules and regulations consistent therewith (Health and Safety Code 11362.83); and

WHEREAS, the impacts of MMDs are documented in the "White Paper on Marijuana Dispensaries " published by the California Police Chiefs Association's Task Force on Marijuana Dispensaries (April 22, 2009), and the United States Department of Justice's California Medical Marijuana Information report; and

WHEREAS, continuing legal developments in the area of medical marijuana dispensaries justify the regulation of such facilities while the courts and other competent authorities address the apparent conflict between federal and state law including internal California legal conflicts.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REDDING AS FOLLOWS:

Section 1. Title 6 of the Redding Municipal Code is amended to add Chapter 6.12 with a title to read as follows:

MEDICAL MARIJUANA COOPERATIVES AND COLLECTIVES

Sections:

- 6.12.010 Applicability.
- 6.12.020 Definitions.
- 6.12.030 Permit for Marijuana Cooperative or Collective.
- 6.12.040 Background Check of Applicant for Medical Marijuana Cooperative or Collective Permit.
- 6.12.050 Action on Application for a Permit.
- 6.12.060 Contents, Posting and Changes in Status of Permits.
- 6.12.070 Membership Application and Verification.
- 6.12.080 Business Licenses, Sales Tax, and Seller's Permit.
- 6.12.090 Development, Operational and Performance Standards.
- 6.12.100 Fees.
- 6.12.110 Renewal of Permit Required.
- 6.12.120 Suspension or Revocation of Permit.
- 6.12.130 Appeals.
- 6.12.140 Violations.

Section 2. Title 6 of the Redding Municipal Code is amended to add Sections 6.12.010 through 6.12.160 to Chapter 16.12 to read as follows:

6.12.010 Applicability.

The standards and criteria established in this Chapter apply to any site, facility, location, entity, cooperative, or collective in the City of Redding that distributes, dispenses, stores, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to Health & Safety Code Sections 11362.5, 11362.7-11362.83 or any State of California, laws, Guidelines or regulations adopted in furtherance thereof. Nothing in this section shall be interpreted to conflict with provisions of Health & Safety Code Section 11362.5 (Compassionate Use Act) and Sections 11362.7 *et seq.* (Medical Marijuana Program Act).

6.12.020 Definitions.

The following terms and phrases, whenever used in this Chapter shall be construed as defined in this section:

- A. "Chief of Police" means the Chief of Police for the City of Redding Police Department or his/her designee.
- B. "City Manager" means the City Manager for the City of Redding or his/her designee.
- C. "City Clerk" means the City Clerk for the City of Redding- or his/her designee.
- D. "Guidelines" means the "Guidelines For The Security and Non-Diversion of Marijuana Grown for Medical Use" issued by the California Attorney General in August 2008, as amended from time to time.
- E. "Medical Marijuana" is marijuana authorized in strict compliance with Health & Safety Code §§ 11362.5, 11362.7 *et seq.*, as such sections may be amended from time to time.

F. "Medical Marijuana Cooperative or Collective" means any not for profit site, facility or location where ten or more Qualified Patients and/or Persons with an Identification Card associate, meet or congregate in order collectively or cooperatively, distribute, sell, dispense, transmit, process, deliver, exchange, or give away marijuana for medicinal purposes pursuant to Health and Safety Code Section 11362.5 *et seq.* and the Guidelines. A Medical Marijuana Cooperative or Collective must be organized as a Collective or Cooperative, as those terms are defined by the Guidelines, as amended from time to time. A "Medical Marijuana Cooperative or Collective" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential hospice, or home health agency licensed pursuant to Chapter 8 of the Health & Safety Code, as long any such use complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.5 *et seq.*

G. "Member" means a Qualified Patient or Primary Caregiver who is a member in good standing of the Medical Marijuana Collective or Cooperative governed by this Chapter.

H. "Permit" or "Medical Marijuana Permit" means a permit issued by the Chief of Police that authorizes the operation of a Medical Marijuana Cooperative or Collective on the terms and conditions set forth in this Chapter. A person who holds a valid Permit from the City shall be a "Permittee."

I. "Person with an Identification Card" shall have the meaning given that term by Health & Safety Code § 11362.7, as amended from time to time.

J. "Primary Caregiver" shall have the meaning given that term by Health & Safety Code §§ 11362.5 and 11362.7, as amended from time to time. A person asserting primary caregiver status must establish that (1) he or she has been designated as such by the medical marijuana patient and (2) he or she must be a person "who has consistently assumed responsibility for the housing, health or safety of " the patient.

K. "Qualified Patient" shall have the meaning given that term by Health & Safety Code § 11362.7, as amended from time to time.

6.12.030 Permit for Medical Marijuana Cooperative or Collective.

A. Prior to initiating operations, and as a continuing prerequisite to conducting legally valid operations, all responsible persons or the responsible entity wishing to operate a Medical Marijuana Cooperative or Collective shall apply for and receive from the Chief of Police a Permit for operation of a Medical Marijuana Cooperative or Collective, on the terms and conditions set forth herein. For those Cooperatives or Collectives established prior to December 15, 2009, desiring to remain in lawful operation after adoption of the requirement for permitting, an application must be submitted and deemed complete no later than January 15, 2010, or the effective date of the ordinance, whichever is later, and the application shall be acted on by the City no later than 60 days after receipt of a complete application.

B. The applicant for a Permit shall submit to the Chief of Police an application to operate a Medical Marijuana Cooperative or Collective. The application shall be filed on a form and shall contain such information as is requested by the City, including but not limited to, the following:

1. A complete description of the type, nature and extent of the enterprise to be conducted and for which application is made, with evidence that the enterprises is

either a Cooperative or Collective, as described in the Guidelines, as may be amended from time to time.

- a. **Statutory Cooperatives:** A cooperative must file articles of incorporation with the state and conduct its business for the mutual benefit of its members. (Corp. Code, § 12201, 12300.) No business may call itself a "cooperative" (or "co-op") unless it is properly organized and registered as such a corporation under the Corporations or Food and Agricultural Code. (*Id.* at § 12311(b).) Cooperative corporations are "democratically controlled and are not organized to make a profit for themselves, as such, or for their members, as such, but primarily for their members as patrons." (*Id.* at § 12201.) The earnings and savings of the business must be used for the general welfare of its members or equitably distributed to members in the form of cash, property, credits, or services. (*Ibid.*) Cooperatives must follow strict rules on organization, articles, elections and distribution of earnings, and must report individual transactions from individual members each year. (See *id.* at § 12200, et seq.) Agricultural cooperatives are likewise nonprofit corporate entities "since they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers." (Food & Agric. Code, § 54033.) Agricultural cooperatives share many characteristics with consumer cooperatives. (See, e.g., *id.* at § 54002, et seq.) Cooperatives should not purchase marijuana from, or sell to, non-members; instead, they should only provide a means for facilitating or coordinating transactions between members.
 - b. **Collectives:** California law does not define collectives, but the dictionary defines them as "a business, farm, etc., jointly owned and operated by the members of a group." (*Random House Unabridged Dictionary*; Random House, Inc. © 2006.) Applying this definition, a collective should be an organization that merely facilitates the collaborative efforts of patient and caregiver members – including the allocation of costs and revenues. As such, a collective is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The collective should not purchase marijuana, but should facilitate or coordinate transactions between members.
2. The address of the location from which the Cooperative or Collective will be operated, and a copy of a lease signed by the owner or duly authorized agent of the property, authorizing allowing the applicant to occupy the property as a Medical Marijuana Collective or Cooperative. The property owner must authorize the application for a Medical Marijuana Collective or Cooperative in writing, and provide his/her name, address, and telephone number of where he/she may be reached for verification of the lease;
 3. The name and address of the applicant for the Cooperative or Collective for which application is made, as well as the applicant's previous addresses for the past five (5) years immediately prior to the present address of the applicant;
 4. All business, occupation or employment of the applicant for the ten (10) years immediately preceding the date of the application.

5. Plan of operations describing how the Cooperative or Collective will operate consistent with the intent of State law, the provisions of this Chapter and the Guidelines, including but not limited to:
 - a. Ensuring marijuana is not purchased or sold by the Cooperative or Collective in a manner that would generate a profit.
 - b. Controls that will assure medical marijuana will be dispensed to patients or caregivers only.
 - c. Controls that will ensure access to the Cooperative or Collective premises is adequately monitored and restricted to pre-approved Qualified Patients or Primary Caregivers.
6. A sketch or diagram showing the interior configuration of the premises. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
7. A security plan outlining the proposed security arrangements for insuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a robbery and a burglary alarm system monitored by a state-licensed operator and a annual written security assessment of the site conducted by a qualified professional. The security plan must also include a lighting plan showing the existing and proposed exterior premise and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use and comply with all City standards regarding lighting design and installation.
8. A written statement by the applicant that he/she certifies under penalty of perjury that the applicant has the consent of the property owner to operate a Cooperative or Collective at that location.
9. A statement by the applicant that he/she certifies under penalty of perjury that all information contained in the application is true and correct.
10. Such other information that is deemed necessary to conduct the background check of the applicant, or for the Chief of Police to demonstrate compliance with this Chapter, the City's Municipal Code or Zoning Code.

C. Based on the information set forth therein, the Chief of Police may impose reasonable terms and conditions on the proposed operations, consistent with Health and Safety Code § 11362.5 *et seq.* and with public health, safety, and welfare. Such terms and conditions may be imposed at the time a Permit for Operation of a Medical Marijuana Cooperative or Collective is issued, upon renewal of the Permit, or at any time during the term of the Permit.

D. A Medical Marijuana Cooperative or Collective Permit shall be valid for only one (1) year. An operator of a Medical Marijuana Cooperative or Collective may re-apply for a Permit for subsequent year(s).

E. The Chief of Police shall conduct a background check of any applicant for a Medical Marijuana Permit and, based on that information, determine whether to issue a Permit.

6.12.040 Background Check of Applicant for Medical Marijuana Cooperative or Collective Permit.

A. Any applicant for a Medical Marijuana Permit shall provide the following information, to enable the Chief of Police, to perform the background check specified herein:

1. The name, address, phone number, and fingerprints of the applicant.
2. A list of each criminal conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted.
3. Such other information as may be required by the Chief of Police, consistent with the purposes of this Chapter, the Municipal Code, and applicable law.

B. Upon receipt of the information referenced above, the Chief of Police shall conduct an investigation and shall determine the background of the applicant to be acceptable for the purposes of the Medical Marijuana Permit

6.12.050 Action on Application for a Permit.

A. An application for a Permit shall be deemed complete then the City receives the last submission of information or materials required in compliance with this Chapter, including the information necessary to conduct a Background Check. Upon notification that an application is incomplete, the applicant shall be granted an extension of ten (10) calendar days to submit all materials required to complete the application. If the application remains incomplete in excess of ten (10) calendar days, the application shall be deemed withdrawn and a new application submittal shall be required.

B. The Chief of Police shall consider the following criteria in determining whether to grant or deny a Permit and/or renewal of a Permit:

1. That the proposed Cooperative or Collective is consistent with the Municipal Code, the Guidelines, State Law, this Chapter, including the application submittal and operating requirements herein.
2. That the location is not identified as having crime issues. "Crime issues" shall mean calls for police services significantly in excess of the average number of calls for service for similar businesses during the most recent reporting period for which statistics are available.
3. That all required application materials have been provided and/or the Cooperative or Collective has operated in a manner consistent with this Chapter.
4. That all required application or annual renewal fees have been paid in a timely manner.
5. That the location is consistent with City of Redding zoning standards and is not prohibited by the provisions of this Chapter, the Guidelines, or by any other local or State law, statute, rule or regulation, and no significant nuisance issues or problems are anticipated or result.

6. That the floor plan, security plan and lighting plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in this Chapter.
7. That the applicant has not violated any local or state law, statute, rule or regulation respecting the distribution, possession or consumption of illegal drugs or controlled substances.
8. The applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business practices or acts.
9. The applicant has not knowingly made a false statement of material fact or has knowingly omitted to state a material fact in an Permit application, or has provided false, inaccurate, or otherwise misleading information, or failed to submit or otherwise refuses to submit to fingerprinting.
10. The applicant, his/her agent, or any person exercising managerial authority on behalf of the applicant has not committed any act involving dishonesty, fraud, or deceit with intent to substantially benefit him or her self, or another, or substantially injure another, or illegal use, possession, distribution, or similar action relating to illegal drugs or controlled substances. Notwithstanding the above, an applicant shall not be denied solely on the basis that the applicant has been convicted of a felony if the applicant has obtained a certificate of rehabilitation under California law or that the applicant has been convicted of a misdemeanor if the applicant has met all applicable requirements of rehabilitation pursuant to California law.

C. Within sixty (60) days of completing the Investigation, the Application shall be approved, conditionally approved, or denied. The Chief of Police may impose conditions, restrictions, or require revisions to the proposal to comply with this Chapter or the Guidelines. Written notice of the Chief of Police's decision shall be mailed to the applicant by U.S. Mail.

D. If the Chief of Police denies or revokes a Permit pursuant to this Chapter, a new application for a Permit shall not be accepted from the applicant whose Permit has been revoked or denied, and no such Permit shall be issued to such person for a period of three (3) years after the action denying or revoking the Permit.

6.12.060 Contents, Posting and Changes in status of Permits.

A. The Medical Marijuana Permit shall include, but not be limited to, the following information:

1. A complete description of the Cooperative or Collective authorized by the Permit;
2. The name and address of the Cooperative or Collective so permitted;
3. The name and address of the principal of the Cooperative or Collective, who applied for the Permit; and
4. Any conditions upon which the Permit is issued.

B. The Permit shall be conspicuously posted at the location of the Permitted site in full public view during business hours so that the Permit may be readily seen by all persons entering the Cooperative or Collective.

C. Permits shall be non-transferable. A Permittee shall not transfer control of a Cooperative or Collective to another person unless and until the proposed new operator files an application for a Permit with the Chief of Police in accordance with the provisions of this Chapter, as though he/she were applying for the initial Permit. Such application shall be accompanied by a statement of the current Permittee indicating his/her intent to transfer control of the Cooperative or Collective to the new Permit applicant. In accordance with this Chapter, the Chief of Police shall determine whether the person seeking a Permit would be entitled to the issuance of a Permit.

6.12.070 Membership Application and Verification.

When a Qualified Patient, Person with Identification Card, or Primary Caregiver wishes to join a Medical Marijuana Cooperative or Collective, the following application guidelines shall be followed to help ensure that marijuana grown for medical use is not diverted to illicit markets:

A. Verify the individual's status as a Qualified patient, Person with Identification Card, or Primary Caregiver. Unless a Qualified Patient has a valid state medical marijuana identification card, the verification process should involve personal contact with the recommending physician (or his or her agent), verification of the physician's identify, as well as his or her state licensing status. Verification of Primary Caregiver status should include contact with the Qualified Patient, as well as validation of the Qualified Patient's recommendation. Copies should be made of the physician's recommendation or identification card, if any; and

B. Have the applicant for the membership Marijuana Cooperative or Collective agree not to distribute marijuana to non-members; and

C. Have the applicant for the membership in Medical Marijuana Cooperative or Collective agree not to use the marijuana for other than medical purposes.

D. Membership as a qualified patient shall be restricted to only those patients with a written recommendation from a doctor recommending or approving a specific quantity of dried marijuana for a specific period of time not to exceed one year. Recommendations not complying with this requirement issued prior to December 31, 2009, shall be brought into compliance no later than January 1, 2011.

E. The membership application and approval process shall include written authorization from any member who is a Qualified Patient consenting to allow the Collective or Cooperative and the City of Redding to verify the member's written recommendation from his or her doctor.

F. The membership application and approval process shall include a statement from any member who is a Qualified Patient or Person with Identification Card that they do not belong to any other collective or cooperative in the County of Shasta. No member may be admitted for membership into a collective or cooperative as a Qualified Patient or Person with Identification Card in the City of Redding if they belong as a Qualified Patient or Person with Identification Card to another collective or cooperative in the County of Shasta.

6.12.080 Business Licenses, Sales Tax, and Seller's Permits.

A. The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller's Permit from the State Board of Equalization, or other applicable State Agency.

B. A Medical Marijuana Cooperative or Collective shall be exempt from the requirement to obtain a City of Redding business license pursuant to Section 6.06.010 of this Code.

6.12.090 Development, Operational and Performance Standards.

Medical Marijuana Cooperative or Collective shall operate in conformance with the following standards to assure that the operations of the Medical Marijuana Cooperative or Collective is in compliance with California law, and the Guidelines, and to mitigate the adverse secondary effects from operations of facilities dispensing Medical Marijuana.

A. **Prohibited Locations.** No Medical Marijuana Cooperative or Collective newly established after December 15, 2009, shall be located:

1. Within 300 feet of or in any residential zones; or
2. Within 1,000 feet of another Medical Marijuana Cooperative or Collective, elementary school, middle school, high school, public library or public park, preschool, or licensed child care facility; or
3. Within 1,000 feet of a youth-oriented establishment characterized the following:
 - a. The establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or
 - b. The individuals who regularly patronize, congregate, or assemble at the establishment are predominantly minors, such as arcades, recreation centers, movie theaters, and similar uses as may be determined by the Police Chief.
4. In any structure sharing common walls with any other business.
5. The distance between a Medical Marijuana Cooperative or Collective, and the uses and zones described above, including another Cooperative or Collective, shall be measured in a straight line, without regard to intervening structures or objects, from the closest property line, or exterior wall of the building or structure, or a portion of the building or structure if located on a property line, in which the Medical Marijuana Cooperative or Collective is located, to the boundary or closest property line where the use or zone described above is located.
6. Where the uses or zones described above are legally created or located within the established buffer areas after the date of application for a Medical Marijuana Cooperative or Collective permit, or the date of issuance of such permit, it shall not be the sole basis for denial or revocation of the permit.

B. **Accessory Use.** A Medical Marijuana Cooperative or Collective is not and shall not be approved as an accessory use to any other use permitted in Title 18.

C. **Security and Lighting Plan.**

1. A Medical Marijuana Cooperative or Collective shall provide adequate security and lighting on-site to ensure the safety of persons, protect the premises from theft at all times, and ensure that the surrounding neighborhood and businesses are not negatively impacted by nuisance activity such as loitering and crime. In addition, a Medical Marijuana Cooperative and Collective shall prepare and implement a

Security Plan, as reviewed and approved by the City of Redding Chief of Police, which shall include the use of recorded video monitors for security, both within and outside the premises.

2. All security guards employed by Medical Marijuana Cooperative or Collective shall be duly licensed by the State of California, Department of Consumer Affairs, and possess a "Security Guard Card" at all times, in a manner compliant with applicable State and Local Laws, rules or regulations. Security guards shall not possess firearms or tasers.
3. A Medical Marijuana Cooperative or Collective must ensure that all marijuana is securely stored. In addition, a reliable, commercial, burglary, and robbery alarm system must be installed and maintained in a manner compliant with Redding Municipal Code.
4. All windows shall remain unobstructed and provide clear visibility in the Medical Marijuana Cooperative or Collective during operating hours.

D. Retail Sales and Cultivation Prohibited. No Cooperative or Collective shall conduct or engage in the commercial sale of any product, good or service. The term "commercial sale" does not include the provision of medical marijuana on terms and conditions consistent with this Code and applicable law.

E. A Cooperative or Collective shall not cultivate marijuana on the premises and may only sell or distribute dried marijuana to its members consistent with quantities recommended or approved for patient use.

F. There shall be no on-site sales of alcohol or tobacco and no consumption of alcohol or tobacco by members on-site, the premises, common area(s), parking lot or sidewalks surrounding the property.

G. No Collective or Cooperative shall distribute or sell medical marijuana for a profit.

H. Consumption Restrictions. No marijuana shall be smoked, ingested, or otherwise consumed on the premises of the Cooperative or Collective. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediately surrounding areas.

I. Operating Hours. The maximum hours of operation shall be as follows: 9 AM to 11 PM, Monday through Saturday, and 9 AM to 7 PM on Sunday.

J. Signage and Notices. A Medical Marijuana Cooperative or Collective shall notify Members of the following in writing and through posting of a minimum 11- inch by 17-inch size sign in a conspicuous location on the premises where it will be visible to members in the normal course of a transaction:

1. Use of medical marijuana shall be limited to the Qualified Patient or Person with Identification Card identified on the doctor's recommendation. Secondary sale, barter, or distribution of medical marijuana is a crime and can lead to arrest.
2. Members of Medical Marijuana Cooperative or Collective must immediately leave the site and not consume or use medical marijuana until at home or in an equivalent private location.

3. Forgery of medical documents is a felony crime.

K. Member Records. A Medical Marijuana Cooperative or Collective shall maintain records of its Members, and must track when Members' medical marijuana recommendation and/or identification cards expire and enforce conditions of membership by excluding members whose identification card or physician recommendation are invalid or have expired, or who are caught diverting marijuana for non-medical use. The Medical Marijuana Cooperative or Collective shall maintain membership records on-site.

L. Cooperative or Collective Records.

1. A Medical Marijuana Cooperative or Collective shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions. Additionally, a Medical Marijuana Cooperative or Collective shall maintain records of all Members contribution of labor, resources or money to the Cooperative or Collective.
2. A Medical Marijuana Cooperative or Collective shall allow the Chief of Police access to the books, records, accounts, and any and all data relevant to its permitted activities for purposes of conducting an audit or examination to determine compliance with this Municipal Code and all applicable laws. Books, records, accounts, and any and all relevant data will be produced to no later than twenty-four (24) hours after receipt of the Chief of Police's request.

M. Dispensing Operations.

1. Medical Marijuana Cooperative or Collective shall only provide, distribute, dispense, give or transmit medical marijuana to member Qualified Patients or Persons with Identification Card. This shall include possession of a valid physician's recommendation, not more than one (1) year old, for medical marijuana use by the patient. A Medical Marijuana Cooperative or Collective shall not distribute medical marijuana to a person who is not a member in good standing of the Cooperative or the Collective.
2. Medical Marijuana Cooperative or Collective shall not provide marijuana to any member in an amount not consistent with personal medical use, as recommended by the recommending physician.
3. No recommendations for use of medical marijuana shall be issued on-site, and the Cooperative or Collective shall not have a physician on-site to evaluate patients.
4. A Medical Marijuana Cooperative or Collective may only dispense, store or transport marijuana in amounts consistent with doctor recommendations issued to its members.
5. A Medical Marijuana Cooperative or Collective shall not store more than Two Hundred Dollars (\$200.00) in cash reserves overnight on the premises.
6. The exterior appearance of the structure shall be compatible with the structures already constructed or under construction within the immediate neighborhood, to ensure against blight, deterioration, or substantial diminishment or impairment of property values in the vicinity.
7. The operator(s) of Medical Marijuana Cooperative or Collective shall maintain the premises, location, property and/or structures free of litter, debris, junk and other

similar cast-off materials and free of graffiti. Any graffiti must be removed and/or repainted within seventy-two (72) hours from discovery of or verbal or written notice of the graffiti vandalism from the City.

8. Restrooms shall remain locked and under the control of the management.
9. There shall be no loitering on the premises, surroundings or parking lot of the Medical Marijuana Cooperative or Collective. No person shall be present on the premises of a Medical Marijuana Cooperative or Collective while intoxicated and/or under the influence of alcohol and/or any controlled substance.
10. No weapons shall be permitted at any Medical Marijuana Cooperative or Collective without prior approval of the Redding Police Department.
11. With the exception of the security guard(s) a Medical Marijuana Cooperative or Collective shall have no employees unless such employees involved in transactions relating to the Medical Marijuana Cooperative or Collective are Members meeting all terms and conditions of applicable law, including the Redding Municipal Code.

N. **Minors.** No person under the age of eighteen (18) shall be allowed on the premises of a Medical Marijuana Cooperative or Collective unless they are a Qualified Patient. Any Qualified Patient under eighteen (18) years of age shall be accompanied by a parent or legal guardian. In addition, no one under eighteen (18) years of age shall be a member of a Medical Marijuana Cooperative or Collective without written, verified authorization by a parent or legal guardian.

O. **Contact Person.** Medical Marijuana Cooperative or Collective shall provide law enforcement and all neighbors within one hundred (100) feet of the Cooperative or Collective with the name and phone number of an on-site staff person to notify if there are problems with the establishment.

P. **Compliance with Conditions and Other Requirements.**

1. A Medical Marijuana Cooperative or Collective which provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate license(s) from the health department for providing food or other comestibles.
2. City of Redding Code Enforcement Officers, City of Redding Police Officers or other agents or employees of the City requesting admission for the purpose of determining compliance with this Chapter and the Guidelines shall be given unrestricted access to the Cooperative or Collective during normal hours of operation.
3. A Medical Marijuana Cooperative or Collective shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Chief of Police to ensure that the operations of the Cooperative or Collective is consistent with protection of the health, safety and welfare of the community, Qualified Patients and Primary Caregivers, and will not adversely affect surrounding uses.
4. A Medical Marijuana Cooperative or Collective shall comply with all other applicable property development and design standards of the City's Municipal Code and Development Code. The building in which the Cooperative or Collective is located shall comply with all applicable local, state and federal rules, regulations

and laws including, but not limited to, building codes and the American with Disabilities Act.

5. A Medical Marijuana Cooperative and Collective shall comply with and operate in compliance with Health and Safety Code Section 11362.5 *et seq.* and in conformance with the Guidelines.

Q. *Indemnification.* Every permit issued under this Chapter shall contain a condition requiring the applicant to execute an agreement with the City whereby the applicant agrees to defend and indemnify the City from any civil liability arising from a lawsuit filed by any third person against both the collective and City arising from the operations of the collective or cooperative.

6.12.100 Fees.

The Chief of Police may impose such reasonable fees on both the application for, renewal of and the issuance of a Permit for, a Medical Marijuana Cooperative or Collective to recoup the cost in administering and implementing the provisions of this Chapter, including but not limited to the costs of background checks.

6.12.110 Renewal of Permit Required.

A. Permits may be renewed by applying with the Chief of Police for additional one (1) year periods upon application by the Permittee, unless the Permit is suspended or revoked in accordance with the provisions of this Chapter.

B. Complete applications for renewal shall be made at least forty-five (45) calendar days before the annual expiration of the Permit, and shall be accompanied by a nonrefundable renewal fee. Applications for renewal shall be governed by the same criteria for approval as initial applications for Permits.

C. Applications for renewal made less than forty-five (45) days before the annual expiration date shall not stay the annual expiration date of the Permit, and in addition to satisfying all other criteria for renewal, the applicant shall be required to demonstrate good cause for failing to timely renew his/her application. The Chief of Police shall have the sole discretion to determine whether such good cause is demonstrated.

D. If a Permit expires without being renewed, the Permittee of the expired Permit must apply for a new Permit by complying with all requirements of this Chapter applicable to an original application for a Permit.

6.12.120 Suspension or Revocation of a Permit.

- A. The Chief of Police may suspend or revoke a Permit for any of the following reasons:
 1. The Cooperative or Collective fails to comply with this Chapter, including but not limited to, the Operating restrictions set forth in this Chapter or the Guidelines; or
 2. The Cooperative or Collective fails to comply with the condition of its Permit; or
 3. The Cooperative or Collective is operated in a manner, or is causing or allowing a nuisance in connection with the Premises; or

4. The Permittee is convicted of a public offense in any court of competent jurisdiction, for the violation of any law which relates to his/her Permit or the operation of the Cooperative or Collective; or
5. The Legislature or the Courts interpret or change the law in a manner that precludes the operation of the collective or cooperative such that the operation plan is not lawful (e.g. if collective is operating without caregiver relationship and caregiver relationship through the cooperative is mandated by law).

B. Upon determining grounds for suspension or revocation of a Permit exist, the Chief of Police may issue to the Permittee written notice of the suspension or revocation, stating the reasons therefore, and serve the notice, together with a copy of this Chapter, upon the Permittee.

C. The suspension or revocation shall become effective ten (10) calendar days following the date of service upon the Permittee, unless the Permittee files a written request for an appeal hearing pursuant to this Chapter. If the Permittee files an appeal within the time and manner prescribed, the Permit shall remain in effect until the appeal is finally determined.

6.12.130 Appeals

A. An applicant for a Permit may file an appeal to the City Manager from the denial of an application for a Permit, or the imposition of conditions on a permit at its issuance. A Permittee may file an appeal to the City Manager the imposition of conditions on a Permit, or a suspension or revocation of a Permit.

B. The appeal must be in writing, shall state the specific reasons for the appeal and the grounds asserted for relief, and be accompanied by a non-refundable appeals processing fee set by City Council resolution, as amended from time to time. The appeal shall be filed with the City Clerk within ten (10) calendar days of the date of the notice of the action which the appeal is taken and shall state the grounds for the appeal. The failure to file an appeal within the time or manner prescribed in this section, or to include the appeals processing fee, shall waive the right to appeal.

C. Upon timely receipt of a written request for a hearing, the City Clerk shall schedule a hearing before the City Manager, which shall be held no later than thirty (30) calendar days after receipt of the request for hearing. Notice of the time, date and place of the hearing shall be provided to the Permittee at least ten (10) calendar days before the hearing.

D. The Chief of Police shall have the burden of proof during the hearing, and shall prove by a preponderance of the evidence that the violations leading to suspension, revocation or denial of the Permit exist, or that grounds for the imposition of conditions exist. The City Manager shall prepare a written decision, which shall be filed with the City Clerk within seven (7) calendar days following the date on which the hearing is closed. The City Clerk shall within three (3) days of receipt of the decision, serve the decision on the Chief of Police and Permittee, or permit applicant.

E. Neither the provisions of the California Administrative Procedure Act (Government Code § 11500 *et seq.*) nor the formal rules of evidence shall apply at the hearing. Any and all evidence which the City Manager deems reliable, relevant and not unduly repetitious may be considered.

6.12.140 Violations.

The establishment, maintenance or operation of a Medical Marijuana Cooperative or Collective in violation of this Chapter, or applicable local or state law or rule, shall be unlawful, and is declared to be a public nuisance and may be abated by the City either pursuant the Municipal Code or any

available legal remedies, including but not limited to administrative enforcement or and/or civil injunctions. The City may also suspend or revoke a Permit, pursuant to the terms of this Chapter.

Section 3. SEVERABILITY. If any section, subsection subdivision paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any person or circumstance. The City Council of the City of Redding hereby declares that it would have adopted each section, subsection subdivision paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections subdivisions paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 4. The passage of this ordinance is not a "project" according to the definition in the California Environmental Quality Act, and therefore is not subject to the provisions requiring environmental review.

Section 5. This ordinance shall take effect thirty (30) days after the date of its adoption, and the City Clerk shall certify to the adoption thereof and cause its publication according to law.

I HEREBY CERTIFY that the foregoing ordinance was introduced and read by the City Council at a regular meeting on the 17th day of November, 2009, and was duly read and adopted at a regular meeting on the ____ day of _____, 2009, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

RICK BOSETTI, Mayor

Attest:

Form Approved:

PAMELA MIZE, Deputy City Clerk

RICHARD A. DUVERNAY, City Attorney