

CHAPTER 1 GENERAL PROVISIONS

(Ord. 1913, Sections 7, 8, 10 to 14, 24; Ord. 375-NS; Ord. 419-NS; Ord. 353-AC; Ord. 376-AC; Ord. 416-AC; Ord. 439-AC)

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Sec. 1-1. How code designated and cited ¹

The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the City of Needles, California,” and may be so cited. Such Code may also be cited as the “Needles City Code.”

Sec. 1-2. Definitions and rules of construction

In the construction of this Code and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

- (a) City.² The words “the city” or “this city” shall be construed as if followed by the words “of Needles.”
- (b) Code. The words “the Code” or “this Code” shall mean “the Code of the City of Needles, California.”
- (c) Computation of time.³ The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday and then it is also excluded.
- (d) Council or City Council.⁴ Whenever the words “council” or “city council” are used, they shall be construed to mean the city council of the city of Needles.
- (e) County.⁵ The words “the county” or “this county” shall mean the County of San Bernardino.
- (f) Day.⁶ A day is the period of time between any midnight and the midnight following.
- (g) Daytime, Nighttime.⁷ “Daytime” is the period of time between sunrise and sunset. “Nighttime” is the period of time between sunset and sunrise

1. For Charter provision authorizing codification of ordinances, see Charter Section 523.
2. For similar Charter provisions, see Charter Section 1603.
3. For similar state law, see Government Code Section 6800.
4. For similar Charter provision, see Charter Section 1603.
5. For similar Charter provision, see Charter Section 1603.
6. For similar state law, see Government Code Section 6806.
7. For similar state law, see Government Code Section 6807.

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- (h) Gender.⁸ the masculine gender includes the feminine and neuter.
- (i) In the city. The words “in the city” shall mean and include all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.
- (j) Joint authority.⁹ All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers unless otherwise specified.
- (k) Month.¹⁰ The word “month” shall mean a calendar month.
- (l) Number.¹¹ The singular number includes the plural, and the plural the singular.
- (m) Oath.¹² “Oath” includes affirmation.
- (n) Officer, Department, etc. Every officer, department, board, commission or similar body mentioned in this Code shall mean an officer, department, board, commission or similar body of the city unless otherwise specified.
- (o) Official time. Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight-Saving Time as may be in current use in the city.
- (p) Or, And “Or” may be read “and,” and “and” may be read “or,” if the sense requires it.
- (q) Person.¹³ “Person” includes any person, firm, association, organization, partnership, business trust, corporation or company.
- (r) Preceding, Following. The words “preceding” and “following” mean next before and next after, respectively.
- (s) Personal property.¹⁴ “Personal property” includes every species of property, except real property, as herein defined.
- (t) Property.¹⁵ The word “property” shall include real and personal property.
- (u) Real property.¹⁶ “Real property” shall include lands, tenements and hereditaments.
- (v) Shall, May.¹⁷ “Shall” is mandatory and “may” is permissive.
- (w) Signature or Subscription by mark.¹⁸ “Signature” or “subscription” includes a mark when the signer or subscriber cannot write, such signer’s or subscriber’s name being written near the mark by a witness who writes his own name near the signer’s or subscriber’s name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.
- (x) State.¹⁹ The words “the state” or “this state” shall be construed to mean the State of California.
- (y) Street. The word “street” shall be construed as including alleys, lanes, courts, public squares, public places and sidewalks, unless such construction would be inconsistent with the manifest intent of the city council.

8. For similar state law, see Government Code Section 12.

9. See C. Code Section 12

10. For similar state law, see Government Code Section 6804.

11. For similar state law, see Government Code Section 13.

12. For similar state law, see Government Code Section 15.

13. For similar state law, see Government Code Section 17.

14. See C. C. Section 14.

15. See C. C. Section 14.

16. See C. C. Section 14.

17. For similar state law, see Government Code Section 14.

For similar Charter provision, see Charter Section 1603.

18. For similar state law, see Government Code Section 16.

19. For similar Charter provision, see Charter Section 1603.

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- (z) Tenant or Occupant. The words “tenant” or “occupant,” applied to a building or land, shall include owners or any person holding a written or an oral lease of or who occupies, the whole or a part of such building or land, either along or with others.
- (aa) Tenses.²⁰ The present tense includes the past and future tenses, and the future includes the present.
- (bb) Week.²¹ A week consists of seven consecutive days.
- (cc) Writing.²² “Writing” includes any form of a recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language, unless it is expressly provided otherwise.
- (dd) Year.²³ The word “year” shall mean a calendar year, except where otherwise provided.
(Ord. 1913, Sections 7, 8, 10 to 14, 24.)

Sec. 1-3. Provisions considered as continuations of existing ordinances

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-4. Effect of repeal of ordinances

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

Sec. 1-5. Severability of parts of Code

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or Section of this Code shall be declared unconstitutional by the valid judgement or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-6. Catchlines of sections

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

20. For similar state law, see Government Code Section 11.

21. For similar state law, see Government Code Section 6805.

22. For similar state law, see Government Code Section 8.

23. For state law definition of “year”, see Government Code Section 6803.

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Sec. 1-7. General penalty; continuing violations ²⁴

Whenever in this Code or in any other ordinance of the city or in any order, rule or regulation issued or promulgated pursuant thereto, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefore. The violation of any such provisions of this Code or any other ordinance of the city or any such order, rule or regulation shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

Every day any violation of this Code or any other ordinance of the city or any such order, rule or regulation shall continue shall constitute a separate offense.

Sec. 1-8. Prisoners required to perform labor on public works ²⁵

Every person confined in jail by the city under a judgment rendered in a criminal action in a court of competent jurisdiction shall be required to perform labor on the public works and ways of this city under the direction of the chief of police.

The chief of police shall procure and use such means as he shall deem necessary for the security of all prisoners under his charge and may prescribe and administer such rules and regulations as shall be deemed necessary to keep good order among the prisoners and compel them to do their work.

The prisoners shall be treated with the kindness compatible with the enforcement of the rules and regulations necessary to compel discipline and obedience to the officers in charge. (Ord. No. 375-NS)

Sec. 1-9. Requirements for public works construction generally

Except as may otherwise be provided in this Code, the provisions of the 1967 edition of the "Standard Specifications for Public Works Construction," prepared and promulgated by the Southern California Chapters of the American Public Works Association and the Associated General Contractors of America, are adopted and applicable to all public works construction undertaken in the city. (Ord. No. 419-NS)

Sec. 1-10. Prevailing wages not required for public works within the sphere of "municipal affairs"

Except as specifically provided in this section, payment of prevailing wages as required by Labor Code Section 1771 is not required on public work projects of the city. Payment of prevailing wages is required only when required by federal or state grants or when the public work projects are of "state concern," as interpreted by *Vial v. City of San Diego* (1981) 122 Cal. App. 3d 346 and subsequent cases. Also, the city council may require the payment of prevailing wages on other public work projects of the city upon determination that such a requirement would be in the public interest. (Ord. No. 353-AC)

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24. For state law authorizing cities to impose fines not exceeding five hundred dollars and imprisonment for terms not exceeding six months, or both, for violations of ordinances, see Government Code Section 36901. For Charter provisions as to penalty for violations of city ordinances, see Charter Section 520.
25. For state law authorizing city to require prisoners to labor on the public works, see Government Code Section 36904. For Charter provision as to authority of city council to require prisoners to labor on public works, see Charter Section 520.

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Sec. 1-11. Chief of police department

During such time as the city contracts law enforcement services with County of San Bernardino sheriff's department, the sheriff of San Bernardino County will act as chief of police. (Ord. No. 376-AC)

Sec. 1-12. Recovery of attorneys' fees and costs

- (a) Unless preempted or prohibited by applicable law, the city is entitled to recover its attorneys' fees and costs from opposing parties whenever it is the prevailing party in an adversarial legal proceeding regarding a municipal affair. The term "adversarial legal proceeding" is to be broadly construed and includes any lawsuit, arbitration or quasi-adjudicatory hearing to which the city is a party. The right of recovery provided by this section applies at all levels of state and federal courts and without regard to whether the city participated as plaintiff or defendant, petitioner or respondent, appellant or appellee.
- (b) The city is deemed to be a "prevailing party" if the outcome of the proceeding is generally more favorable for the city than it is for the opposing parties. The term "outcome" is to be broadly construed and includes any event which brings an end to an adversarial legal proceeding, including entry into a settlement agreement.
- (c) Unless preempted by state law as a matter of statewide concern, the term "municipal affair" means any matter that directly involves or affects the city, including but not limited to all of the following: city police power regulations; nuisance abatement; land use, planning and zoning matters; public contracts; licenses and permits issued by the city; development approvals and fees; utility charges and other charges for city services; and the imposition of taxes or assessments.
- (d) The costs recoverable under this section include any city expenses incurred during or as a result of the city's participation in a legal proceeding, such as court costs, expert witness fees, photocopying costs, and the estimated value of any time spent by city officials and staff on the matter.
- (e) To provide notice of this section to potential parties who may be affected by it, the city shall exercise due diligence to cite or otherwise refer to this section in contracts, licenses, and other relevant city documents provided to third parties regarding a municipal affair. But any failure to provide such notice will not affect the city's rights of recovery under this Section. (Ord. No. 416-AC)

Sec. 1-13. Recovery of attorneys' fees in nuisance abatement action²⁶

Notwithstanding any other provision of this Code, in any action, administrative proceeding or special proceeding brought by the city to abate a nuisance, the prevailing party shall be entitled to a recovery of reasonable attorneys' fees. This Section shall apply only if the city elects, at the initiation of the individual action or proceeding, to seek recovery of its own attorneys' fees. The amount of attorneys' fees awarded to the prevailing party in the action, administrative proceeding or special proceeding shall not exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding. (Ord. No. 439-AC)

26. For statutory derivation, see Government Code Section 38773.5(b)