



CITY COUNCIL MEETING

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA



MAYOR TONY HESCH • MAYOR PRO-TEM KIM DOUGLASS
COUNCILMEMBERS • DONNA BARKLE • JASON MCKINNEY • TOM PARNHAM

WORKSHOP and REGULAR MEETING AGENDA

Workshop Begins at 5:30 PM April 23, 2014 • Regular Session begins at 7:00 PM

The City Council encourages the participation of the public. To ensure the expression of all points of view, and to maintain the efficient conduct of the City's business, members of the public who wish to address the Council shall do so in an orderly manner. The audience is asked to refrain from positive or negative actions such as yelling, clapping or jeering that may intimidate other members of the public from speaking. Members of the public wishing to speak may request recognition from the presiding officer by raising his or her hand, and stepping to the podium when requested to do so.

1) CONVENE WORKSHOP

- 1A. Pledge of Allegiance
- 1B. Roll Call
- 1C. Workshop on Medical Marijuana Dispensary: Proponents, 30 minutes
- 1D. Public Comments, 30 minutes
- 1E. Questions and Answers, 15 minutes
- 1F. Adjournment for Council Meeting, expected at 6:45 PM

15 Minute Stretch Break

2) CONVENE REGULAR SESSION - approx. 7:00 PM

- 2A. Approval of Agenda Order
RECOMMENDED ACTION: By motion, accept the agenda as presented or amended.

3) PUBLIC COMMENT

At this time, members of the audience are permitted to address the Council on matters of concern to the public that are not listed on this agenda. Please make your comments as brief as possible. Comments should not exceed three (3) minutes in length. The Council cannot act on items not included on this agenda; however, if action is required it will be referred to staff.

4) COUNCIL BUSINESS

- 4A. Conduct discussion and direct staff regarding whether the Council should revoke Ordinance No. 506 that currently prohibits marijuana dispensaries, and amend the City's municipal code to allow development of one or more medical marijuana dispensaries to be located in Colfax.
STAFF PRESENTATION: Mark Miller, City Manager; Ty Conners, Colfax Station Commander; Chris Paulus, Colfax Fire Chief
RECOMMENDATION: Discuss and Direct Staff as Appropriate.

5) COUNCIL, STAFF AND OTHER AGENCY UPDATES/REPORTS

- 5A. Committee Reports and Informational Items - All Councilmembers
- 5B. Operations Update – City staff
- 5C. Additional Reports – Agency partners

6) ADJOURNMENT

IN WITNESS THEREOF, I have hereunto set my hand and posted this agenda
at Colfax City Hall and Colfax Post Office.

Lorraine Cassidy
City Clerk





STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE APRIL 23, 2014 COUNCIL MEETING

FROM: Mark Miller, City Manager; Ty Conners, Colfax Station Commander; Chris Paulus, Colfax Fire Chief

PREPARED BY: Staff

DATE: April 18, 2014

SUBJECT: Conduct discussion and direct staff regarding whether the Council should revoke Ordinance No. 506 that currently prohibits marijuana dispensaries, and amend the City’s municipal code to allow development of one or more medical marijuana dispensaries to be located in Colfax.

<input type="checkbox"/>	N/A	<input type="checkbox"/>	FUNDED	<input checked="" type="checkbox"/>	UN-FUNDED	No funds have been budgeted for Ordinance changes	FROM FUND: N/A
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RECOMMENDED ACTION: Discuss and Direct Staff as Appropriate

SUMMARY:

Due to public safety, potential negative community impacts, legal issues, and the evolving State and Federal treatment of marijuana dispensaries, all of City Council’s professional management level staff – the Colfax Station Commander, the Colfax Fire Chief, the City Planner, the City Financial Manager, the City Attorney, and the City Manager, strongly advise against permitting a marijuana dispensary at this time, and advise maintaining the current Ordinance No. 506 prohibiting such dispensaries. The issue before City Council is not the appropriateness of marijuana for medicinal or recreational use, but rather the appropriateness of changing an existing land use ordinance that has been successfully in place since 2009. Staff believes there would be potentially significant negative impacts from changing the ordinance at this time. City management, city attorney and public safety staff are available to answer questions City Council may have.

BACKGROUND AND DISCUSSION:

Currently City Ordinance No. 506, adopted unanimously by City Council on October 28, 2009, prohibits marijuana dispensaries in all zoning districts throughout the City. The ordinance was passed in part based

on findings that marijuana is classified under the United States Controlled Substance Act as a Schedule 1 drug, and the potential for increase in crime and the sale of illegal drugs in areas surrounding dispensaries.

Legal issues and problematic timing of removing an existing functioning land use ordinance prematurely.

The issue before City Council is a local land use and legal issue. State and Federal laws are rapidly evolving that will provide more uniform rules for Marijuana Dispensaries, and relieve much of the burden on a small jurisdiction like Colfax when they are in place. Colorado and the state of Washington are gaining experience that will reduce problems when California implements additional legal guidelines, likely by 2016. There are sound reasons why the city councils and Board of Supervisors of the cities and county governments in Placer have declined Marijuana Dispensaries. At this time, Colfax being the only city in the County with a dispensary would concentrate all the negative impacts, known and unknown problems, in the smallest jurisdiction in the County. In addition to the current Federal treatment of marijuana as illegal being likely to change by 2016, there may be other jurisdictions nearby to Colfax that spread the impacts. In the future, jurisdictions will have the substantial experience to draw on from the states of Colorado, Washington and others.

The legal issues related to California medical marijuana dispensaries are complex and unsettled, especially with regard to the conflict between federal and state law. Some of the current legal issues include:

- 1 Marijuana is illegal under federal law. As a Schedule 1 controlled substance, the federal government has determined that it has “no currently accepted medical use in treatment in the United States” and there is no “medical necessity” exception.
- 2 The federal government can criminally or civilly prosecute anyone who possesses, distributes or manufactures marijuana, even if it is done through a properly licensed California medical marijuana dispensary. This is most recently illustrated by the case of Aaron Sandusky whose conviction and ten year prison sentence for continuing to run a medical marijuana dispensary legally established in California were upheld by the U.S. 9th Circuit Court of Appeals on March 17, 2014.
- 3 The U.S. Attorney’s Office and several district attorneys throughout the country have opined that state and local officials who facilitate the distribution of marijuana through, for example, the issuance of business licenses can be subject to federal prosecution. Although the likelihood of such prosecution is slim and, to the City Attorney’s knowledge, none have been filed, the risk cannot be dismissed; compliance with state and local laws does not provide a defense to federal prosecution.
- 4 California law provides defenses to individuals prosecuted under state law but not federal law.
- 5 Marijuana is generally still illegal in California except under limited circumstances. The “Compassionate Use Act” (CUA) and the “Medical Marijuana Program” (“MMP”) did not legalize marijuana in California except under those limited circumstances.
- 6 Colfax has the right under California law and its land use and police powers to allow, restrict, limit or entirely exclude medical marijuana facilities.

- 7 The City's ability to collect revenue from a medical marijuana facility is quite limited unless the City's voters approve a tax measure or possibly unless some form of development agreement or similar contract can be negotiated and withstand legal scrutiny. Regulatory fees to recover the cost of issuing building permits and conduct inspections can be imposed but cannot exceed the costs of the regulatory purpose, and the fee calculations must be studied, documented, presented to and approved by the City Council.
- 8 The City cannot impose a mitigation impact fee equal to 4% of gross revenue. It may be able to enter some form of agreement whereby the operator voluntarily pays 4% of gross revenue but that agreement may be of questionable legality and would not be binding on other facility operators if more than one dispensary is allowed to operate in Colfax.
- 9 The most reliable, legally enforceable method for collecting 4% of gross revenue from a medical marijuana dispensary in Colfax is for the City's electorate to adopt a tax for that purpose.

The disincentive for families and business investment in what would be Placer County's only town with a Marijuana Dispensary.

Colfax is at a crossroads with a slowly recovering economy, declining enrollment at the schools and businesses leaving town. A significant number of current Colfax residents have come to city hall to express their opposition and dismay at having a Marijuana Dispensary proposed in Colfax. In contrast, only a few members of the public came to City Hall offices to speak in favor of a dispensary, and 2 of them were those wanting to open a dispensary. The surrounding area has a drug abuse problem with hard drugs, which do not equate with marijuana use. But permitting a federally illegal substance in primarily a cash business would, in the experience of our public safety professionals, cause additional drug problems. This was the case in Colorado recently where a college student jumped off of a balcony to his death. The cause of death and what made him jump was reported to be marijuana intoxication. The student ate a marijuana-laced brownie that he legally purchased from a marijuana shop.

Young families are the future of Colfax, and staff's experience has been that most parents would choose to raise their families in a neighboring town without a dispensary over locating in the only town in the area with a dispensary. Marijuana Dispensaries are now providing marijuana infused brownies, candies, soft drinks and other edibles which can more easily be, intentionally or unintentionally, consumed by children. Similarly with most business owners, a prospective owner investing all the costs of relocating or starting a business, would choose a town without a divisive and potentially illegal dispensary and the associated controversy. Colfax staff and community organizations are working diligently to encourage businesses to locate or stay in town, and the issue of drug abuse and availability is one of the most frequently mentioned disadvantages of locating in Colfax.

Negative impacts on Colfax's limited resources.

At this time, Colfax does not have the resources to manage the legal, regulation oversight and external impact demands that a Marijuana Dispensary would require. Colfax has only 7 full-time employees running

essentially a full-service city. Colfax has only 1.26 square miles of area in town, so anything that happens anywhere in Colfax affects the whole community. We have extreme challenges in running a complex wastewater system, deferred infrastructure maintenance needs, and providing oversight on such basic services as code enforcement and fire prevention.

The potential revenue suggested by Marijuana Dispensary proponents is of questionable legality (see the previous legal research). Revenue actually received in jurisdictions approving dispensaries has turned out to be less than projections. The amount projected in Colfax, even if collectable, would be less than the additional costs Colfax would likely incur for increased public safety expenses, legal expenses, traffic impacts and administration. There are additional Marijuana Dispensary potential owners that have contacted the City wanting their own separate dispensary, which would be very difficult to prevent once the first dispensary was allowed.

FINANCIAL AND/OR POLICY IMPLICATIONS:

City staff believes changing Ordinance 506 would incur significant immediate legal and staff costs. Staff believes that long term costs of addressing impacts of a dispensary in the City at this time would exceed any revenue that could be collected by the City from a dispensary. No funds are currently budgeted for changing Ordinance 506.

Attachments: Ordinance 506; 4/9/2014 Schwartz email; 2/25/2014 Molloy letter; 2/4/2014 Brock packet

City of Colfax

ORDINANCE NO. 506

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX PROHIBITING OPERATION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COLFAX

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as California Health and Safety Code Section 11362.5, *et seq.* and entitled the "Compassionate Use Act of 1996" (the "Act"); and

WHEREAS, the intent of the Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specified circumstances; and

WHEREAS, on January 1, 2004, Senate Bill 420 ("SB 420") became effective to clarify the scope of the Act and to allow cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the Act; and

WHEREAS, under the United States Controlled Substances Act, marijuana is classified as a Schedule 1 drug, meaning it has no accepted medical use; and

WHEREAS, federal law continues to treat the growing, sale and distribution of marijuana as a federal crime: and

WHEREAS, a medical marijuana dispensary has been in operation in the City of Colfax since March of 2004 at 233 "B" Highway 174, Colfax, as a conditionally permitted use in the C-R, Commercial Retail District under Section 17.76.020 of the Colfax Municipal Code; and

WHEREAS, other California cities that have permitted the establishment of medical marijuana dispensaries have reportedly witnessed an increase in crime, such as burglaries, robberies, and the sale of illegal drugs in the areas immediately surrounding such dispensaries; and

WHEREAS, the City Council hereby finds and determines, based on substantial evidence in the record before it, as follows: (a) adoption of this Ordinance does not constitute a "project" as that term is defined by or used in the California Environmental Quality Act (California Public Resources Code Section 21000 *et seq.*, hereinafter "CEQA"), the California Code of Regulations Title 14, Division 6, Chapter 3 "Guidelines for Implementation of the California Environmental Quality Act" (the "CEQA Guidelines") or any court or attorney general opinion construing the same. Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto; (b), this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines 15060(c)(2); and (c) In the event that it is found that said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, or that CEQA or the CEQA Guidelines are otherwise applicable to this Ordinance, which finding would be contrary to the City's opinion of its action, the City Council hereby finds that said action is exempt from CEQA and the CEQA

Guidelines because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA or the CEQA Guidelines. See CEQA Guidelines Section 15061(b)(3). It can be seen with certainty that this Ordinance cannot possibly have a significant effect on the environment; and

WHEREAS, the City Council has determined that it is not in the public interest of the City to allow a proliferation of medical marijuana dispensaries within the City limits and that there is a need to prohibit them entirely within the City, other than existing dispensaries in operation when the City first regulated such uses;

NOW, THEREFORE, THE CITY OF COLFAX DOES ORDAIN AS FOLLOWS:

Title 17 of the Colfax Municipal Code is hereby amended by adding Chapter 17.109 as follows:

Chapter 17.109. Medical Marijuana Dispensaries

17.109.01 Prohibition of Medical Marijuana Dispensaries. Medical marijuana dispensaries as defined in this Chapter are a prohibited use in all zoning districts throughout the City.

17.109.10 Existing Medical Marijuana Dispensaries. Existing medical marijuana dispensaries with valid business licenses as of November 27, 2009 shall be considered as legal non-conforming uses. Such dispensaries may continue to operate in accordance with the provisions of Chapter 17.32 except that, in addition to such regulations, if any of the following circumstances arise then, without further action by the City, such building and the land on which such building is located shall be subject to the provisions of this chapter prohibiting such use:

- A. The operators of the dispensary are convicted of any crime other than an infraction relating to the operation of the dispensary;
- B. The dispensary becomes a public nuisance;
- C. The dispensary or its operators violate any provision of this Code relating to its operation;
- D. The dispensary is closed or its activities curtailed by the action of a superior governmental authority or by order of any court of competent jurisdiction; or
- E. The dispensary is closed or its activities curtailed by other valid legal process.

17.109.20 Definitions.

Whenever used in this Chapter, the following words or phrases shall have the following meanings:

- A. "Identification card" shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

B. "Medical marijuana dispensary means and refers to any facility or location where medical marijuana is made available, sold, transmitted, given, distributed, supplied or otherwise provided to one or more of the following: (1) more than one qualified patient, (2) more than one person with an identification card, or (3) more than one primary caregiver. The term "Medical marijuana dispensary" includes a medical marijuana cooperative. "Medical marijuana dispensary" shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and as long as such use complies strictly with applicable law, including, but not limited to, Health and Safety Code Section 11362.7, *et seq.*:

(1) a clinic, licensed pursuant to Chapter 1, Division 2 of the Health and Safety Code;

(2) a health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;

(3) a residential care facility for persons with chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;

(4) a residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; or

(5) a hospice licensed pursuant to Chapter 8.5 of Division 2 of the California Health and Safety Code, the owner or operator, or

(6) a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code

C. "Person with an identification card" shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

D. "Primary caregiver" shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

E. "Qualified patient" shall have the same meaning as that set forth in California Health and Safety Code §11362.7 as currently in effect or as may be amended from time to time, or any successor statute.

17.109.30 Penalty Provisions

A. Violation of any provision of this chapter is a misdemeanor unless (1) the City Attorney authorizes issuance of an infraction citation or files, or authorizes the filing of, a complaint charging the offense as an infraction or (2) a court with jurisdiction over the matter, upon recommendation of the City Attorney, determines that the offense should be prosecuted as an infraction.

B. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes any violation thereof, and shall be penalized accordingly.

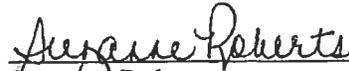
17.109.40 Civil and Administrative Remedies

A. The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and shall, in the City's discretion, be prosecuted as such and subject to all remedies allowed by law.

B. In addition to the criminal penalties and civil remedies set forth above, any violation of any provision of this chapter shall, in the City's discretion, be subject to any administrative remedies presently or hereafter allowed under the Colfax Municipal Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Colfax held on the 14th day of October, 2009 and adopted by the City Council of the City of Colfax at a duly held regular meeting of the City Council of the City of Colfax held on the 28th day of October 2009 by the following vote:

AYES: Council members Alpine, Barkle, Delfino and Mayor Roberts
NOES: None
ABSENT: Harvey



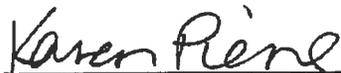
Suzanne Roberts,
Mayor

APPROVED AS TO FORM:



Alfred A. Cabral
City Attorney

ATTEST:



Karen Pierce
City Clerk

From: Jonathan Schwartz [mailto:jschwartz@puhsd.k12.ca.us]
Sent: Wednesday, April 09, 2014 2:27 PM
To: mark.miller@colfax-ca.gov
Subject: Medical marijuana dispensery in Colfax



To City Council,
I teach at Colfax High school, live in Colfax and am adamantly opposed to a marijuana dispensary in the city of Colfax.
Thank you, J Schwartz

--

Jonathan Schwartz
Colfax High School
24995 Ben Taylor Road
Colfax, CA 95713

530-346-2284 x 2408
www.Core-Cards.com

Please consider the environment before printing.

February 25, 2014

Mark Miller, City Manager
City of Colfax
33 S. Main Street
Colfax CA 95713



Dear Mr. Miller,

Approximately two weeks ago, a man came to our home in downtown Colfax, requesting a signature for a petition. The man stated the petition was for a medical dispensary business hoping to open in town. Upon questioning him, the man acknowledged the medical dispensary was indeed a Medical Marijuana facility and seemed shocked my husband and I knew the meaning of the vague terminology he used.

The next day, I visited City Hall and expressed our dismay regarding this type of business opening in Colfax. I also expressed some alarm in this man's approach and verbiage regarding this business. Surely, an older person, which is a large part of the City's demographic, would not fully understand what a medical dispensary entailed - thus could have inappropriately signed the petition. In our opinion, this type of community interaction seemed deceptive.

On behalf of our family, which includes five children, we would like to submit to you that we DO NOT support the proposed medicinal dispensary opening in the City of Colfax.

We plan to submit a letter to Council illustrating our reasoning for opposition for the April City Council meeting.

Thank you for your continued commitment and dedication to our City.

Sincerely,

Lanty and Kelly Molloy
121 Quinns Lane



D. Kenneth Brock, Esq.
Of Counsel

916▲252▲0200 tel
916▲244▲0447 fax
kbrock@hmslawgroup.com



VIA E-MAIL & CERTIFIED U.S. MAIL

February 4, 2014

Colfax City Council
City of Colfax
PO Box 702
Colfax, CA 95713
Attention: City Clerk

Re: **Potential Funding For I-80 Corridor Improvement Project**

Dear Honorable Council Members:

Our office represents the Colfax Herbal Collective (“CHC”) and its duly-elected manager, Ms. Stacie Younggren (collectively, our “client”). Accordingly, this letter is to propose a solution to the funding challenges currently facing the City’s I-80 Corridor Improvement Project (the “I-80 Project”) and to renew our client’s original September 25, 2013 request for a medical marijuana dispensary (“MMD”) business license.

We respectfully request that this matter be placed on the Agenda for the February 12, 2014 City Council meeting or, alternatively, as soon as it may be heard.

As a responsible member of the community it intends to serve, CHC has reached out directly to Colfax residents and CHC community volunteers who participated in our client’s outreach efforts were overwhelmed and deeply-moved by their support. As such, we are extremely pleased to enclose for your consideration as Attachment “A” a petition signed by 204 community residents¹ – or roughly 10% of the City’s entire population - expressing support for both CHC and our client’s proposal.

Under Chapter 17.52, Section 020, Para A of the Colfax Municipal Code (“CMC”), Zoning Code amendments may be initiated by a motion of the City Council. Accordingly, we respectfully request such a motion and enclose herein as Attachment “B” two separate ordinances which would, respectively, allow the City to approve the enclosed business license application and help to ensure the success of I-80 Project.

To ensure the Council’s decision is based upon applicable law, our office has prepared the following Executive Summary and corresponding Discussion and Analysis with supporting case and code citations:²

Sacramento
455 Capitol Mall
Suite 605
Sacramento, CA
95814

Solano County
7005 Mills Lane
Vacaville, CA
95688

hmslawgroup.com

¹ The fact that a small handful of the Petition’s signatories reside outside the City limits was a mere oversight by CHC volunteers who generously donated their time and labor so the voice of Colfax residents could be heard.

² Additional background materials have also been made available through our website at www.hmslawgroup.com, which can be accessed through the [Client Portal](#) section of our site with the following information: citycolfax (User ID) and ColfaxZoning2013 (Password).

Executive Summary

1. Applicable Law.

- The Compassionate Use Act (“CUA”) and the Medical Marijuana Program Act (“MMPA”) exempt qualified patients and their caregivers from criminal and civil liability under California law and expressly allow them to form not-for-profit, member-based organizations through which they may lawfully exchange medicinal cannabis with their fellow members.
- The MMPA allows these organizations to utilize a medical marijuana dispensary (“MMD”) and the California Supreme Court has expressly held that municipalities may regulate MMD’s through municipal ordinances.
- While 73% of Americans actually *support* legislation which allows for the sale and use of cannabis for medicinal purposes and 58 percent of Americans support legalization even for recreational purposes, the federal Controlled Substance Act (the “CSA”) still prohibits the sale or use of cannabis for *any* purpose *even if* used to alleviate the symptoms of a terminal illness.
- California’s CUA and MMPA are not, however, invalidated by the federal CSA which, by its plain language, *does not apply* to the regulation of land by local state officials. For this reason, Courts have expressly determined that local municipalities *do not* violate federal law and local state officials *are not* subject to federal civil or criminal liability for regulating MMD’s within their jurisdictions.
- Courts have also determined that local and state law enforcement officials *are not* permitted to use their authority for the purpose of enforcing federal law – including the federal CSA - which differs from the CUA or MMPA.
- In addition to California, there are currently 21 other states, plus the District of Columbia, which allow for the sale and use of medicinal cannabis. There are also several others – including New York, Illinois and Florida – which are expected to have medicinal cannabis measures on the ballot this year.
- In states, such as California, which already allow for the possession and sale of medicinal cannabis the U.S. Justice Department (the “Department”) has directed federal officials to focus their efforts on the following enforcement criteria:
 - preventing the distribution of cannabis to minors;
 - preventing revenue generated from cannabis from going to criminal enterprises;
 - preventing diversion of cannabis from states where it is legal to states where it is not;
 - preventing cannabis-related activity from being used as a cover for illegal activity;
 - preventing violence or the use of firearms in any cultivation or distribution activity;

- preventing drugged driving or other adverse public health consequences; and
 - preventing the cultivation of cannabis on public lands and federal property.
 - The Department's policy memorandum also concluded that strong and effective *state and local* regulations can sufficiently address these criteria in states, such as California, which allow for the sale and use of medicinal cannabis.
 - Last year, the voters of Washington and Colorado affirmatively legalized cannabis for purely recreational purposes and, in a rare display of respect for State sovereignty, the Obama Administration has directed the Department to leave these laws alone.
2. Ordinance #1; MMD Permitting Ordinance
- Replaces the City's prohibition of MMD's with a conditional permitting requirement that is based upon an ordinance *already* successfully implemented by the City of Sacramento.
 - Allows the City to issue 1 MMD Permit, which consists of both a business license and a conditional use permit ("CUP"). The conditions imposed for the CUP require compliance with both California law and are drafted to address the Department's enforcement criteria.
 - Specifically, Ordinance #1 would ensure:
 - That minors are strictly prohibited from accessing cannabis;
 - That revenues generated from the MMD are closely monitored and tracked;
 - That the MMD's operations are transparent and information regarding its operations is easily accessible to both the City *and* State law-enforcement officials;
 - That only those who are legally-entitled to possess or use cannabis may do so;
 - That stringent security measures are in place to prevent potential violence or property crimes; and
 - That the MMD's operation does not result in drugged driving or other public health risks.
 - Entitles the City to amend the CUP requirements or revoke the MMD Permit altogether if California law or the Department's enforcement criteria are ever violated or changed.
 - Requires that the MMD obtain a seller's permit and pay any applicable sales and other federal and California state taxes.
 - Permits the MMD to be located within a Commercial Retail (CR) or Commercial Highway (CH) Zone District. Since *all* CH Zone Districts are located within the I-80 Project Overlay, this ensures that there is a reasonable relationship between the

MMD's operations and the I-80 Project, which is required for the imposition of mitigation impact fees.

- Specifies that, in exchange for the MMD Permit, the MMD will consent and agree to pay mitigation impact fees. Since the City is not legally-required to issue the MMD Permit, the MMD's consent and promise to pay the mitigation impact fees are consideration for the MMD Permit and, as such, are contractually-binding.
3. Ordinance #2; Mitigation Impact Fee Ordinance
- Amends the Colfax Municipal Code such that projects which require an MMD Permit are considered to be "development projects" for purposes of the City's mitigation impact fees.
 - Requires that mitigation impact fees be held within the City's Roads Fund and used for the construction of roads, roadway improvements, studies and plans for the I-80 Project.
 - Sets the amount of such mitigation impact fees at 4% of the MMD's gross receipts³ such that mitigation impact fees collected for the I-80 Project would be as follows:

Annual Gross Receipts	I-80 Project Revenues
\$500,000	\$20,000
\$1,000,000	\$40,000
\$1,500,000	\$60,000
\$2,000,000	\$80,000
\$2,500,000	\$100,000
\$3,000,000	\$120,000

Discussion & Analysis

1. Applicable Law.

A. California Law.

In 1996, the Compassionate Use Act (the "CUA") was enacted into law directly by California voters via Proposition 215. Proposition 215 was passed by a significant margin, with 55.6% of California voters in favor and only 44.4% opposed. Among the specific purposes for which California voters approved Proposition 215 was

³ The City of Sacramento currently imposes a 4% tax upon MMD's. However, since this is a general fund tax and not a mitigation impact fee, the Ordinance had to be approved by Sacramento voters in the 2010 elections.

*"To ensure that seriously ill Californians have the **right** (emphasis added) to obtain and use marijuana for medicinal purposes and to ensure that patients and their caregivers who obtain and use marijuana for medical purposes... are not subject to criminal prosecution or sanction..."* CA Health & Safety Code §11362.5 (b)(1)(A-B).

In January of 2004, the Legislature enacted the Medical Marijuana Program Act (the "MMPA", as codified within §§11362.7 through 11362.83). The specific legislative purpose in enacting the MMPA was, among other things, to

"...Enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects." (2003 Cal SB 420 §1).

To this end, the MMPA expressly exempted those whose physicians had recommended the use of medicinal cannabis, as well as their designated primary caregivers, from criminal and civil sanctions under CA Health & Safety Code's Sections 11357 [possession of marijuana], 11358 [cultivation of marijuana] 11359 [possession for sale], 11360 [transportation]....11366.5 [making available premises for the manufacture, storage or distribution of controlled substances], and 11570 [abatement of nuisance created by premises used for manufacture, storage or distribution of controlled substances]. Courts which have interpreted the MMPA have affirmatively determined that it ultimately authorizes the formation and use of not-for-profit, member-based organizations by those whose physicians have recommended the use of medicinal cannabis through which they may cultivate and exchange medicinal cannabis with and among their fellow members (*People v. Urziceanu*, (2005) 132 Cal App 4th 747, 785).

To help ensure the security and non-diversion of cannabis grown for medicinal use, the MMPA likewise directed the California Attorney General (the "AG") to develop and adopt appropriate guidelines (§113622.81(d)). In August of 2008, the AG dutifully complied with this legislative mandate through the publication of the *2008 California Attorney General Guidelines For the Security And Non-Diversion of Marijuana Grown For Medical Use* (the "AG Guidelines"). The California Attorney General is the highest-ranking law enforcement officer in the State and, as such, the AG Guidelines are entitled to significant weight under California law (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System*, (1993) 6 Cal.4th 821, 829).

While the MMPA did not originally address the use of an MMD, the AG's Office nonetheless determined that the use of such facilities by lawfully formed and operated MMPA organizations was permissible under California law (AG Guidelines, page 11). The AG's opinion has since been consistently confirmed by subsequent California decisions interpreting the MMPA (*Qualified Patients Assn. v. City of Anaheim*, (2010) 187 Cal. App 4th 734, 750; see also *People v. Hochanadel* (2009) 176 Cal App. 4th 997, 1011).

Although the MMPA exempts qualified patients and caregivers who form and participate in MMPA cooperatives and collectives from criminal and civil liability under California law, courts have noted that it does not completely address the permissible location or manner in which they may operate (*County of Los Angeles v. Martin Hill*, (2011) 192 Cal. App. 4th 861). Consequently, neither the CUA nor the MMPA ultimately affect a municipality's well-established authority to enact legally-valid ordinances to regulate MMD's within its jurisdiction (*County of Los Angeles* at 862).

The scope of authority which municipalities have to regulate MMD's is extremely broad and, as such, the California Supreme Court has expressly determined that municipalities may enact ordinances to "...allow, restrict, limit, or entirely exclude..." MMD's within or from their jurisdictions (*City of Riverside v. Inland Empire Patients Health & Wellness* (2013) 56 Cal. 4th 740). MMD's do, therefore, represent a legally-recognized land-use under California law which the City may lawfully choose to allow within its jurisdiction and use as source of revenue should it wish to do so.

B. Federal Law

As an arcane remnant of President Nixon's failed "war on drugs",⁴ the Controlled Substances Act (the "CSA" as codified within 21 USC §801 et. Seq.), currently represents a comprehensive regulatory regime purporting to prohibit the unauthorized manufacture, distribution, dispensing, and possession of substances classified within any of the CSA's five schedules. (*Gonzales v. Raich* (2006) 546 U.S. 1, 6). The CSA currently places marijuana within Schedule 1, which includes substances that are subject to the most restrictions. (21 U.S.C. § 812.)

While drugs within other schedules may be prescribed and dispensed for medical use, those within Schedule 1 may not. (*Gonzales* at 17). Consequently, despite the great weight of medical and scientific evidence to the contrary⁵ and despite overwhelming public opposition,⁶ the inclusion of marijuana within Schedule 1 currently reflects the determination of Congress that marijuana has no accepted medical use (*Ibid.*)

⁴ See Report of the Global Commission on Drug Policy, p. 2, concluding that the so-called "war-on-drugs" has failed, with devastating consequence within the U.S. and abroad (<http://globalcommissionondrugs.org/Report>).

⁵ See Inst. Of Med., *Marijuana and Medicine: Assessing the Science Base* (Janet E. Joy et al. eds., 1999) (www.nap.edu/books/0309071550/html), affirming the efficacy of cannabinoid drugs, primarily THC, for pain relief, control of nausea, vomiting and appetite stimulation; see also American College of Physicians, *Supporting Research Into the Therapeutic Role of Marijuana* (http://www.acponline.org/advocacy/where_we_stand/other_issues/med), urging a comprehensive, evidence-based review of existing federal policy and supporting exemption from federal criminal prosecution, civil liability and professional sanctions for physicians and patients who use of medical marijuana is permitted under state laws; see also American Cancer Society, *Report* (www.cancer.org/Treatment/Treatmentsandsideeffects/complementaryandalternativemedicine/herbsvitaminsandminerals/marijuana); acknowledging the well-documented, 3,000 year history of marijuana in treating ailments such as beriberi, gout, rheumatism, depression, insomnia, vomiting, angina, chest and intestinal pains, epilepsy, bronchitis, whooping cough and asthma and urging exemptions from federal sanctions for patients whose marijuana use has been recommended by a physician; see also American Medical Association, *Report 3 of the Council on Science and Public Health (I-09) Use of Cannabis For Medicinal Purposes* (Resolutions 910-I-08; 921, I-80; and 229; A-09).

⁶ See Pew Research Polls indicating, respectively, that a full 73% of Americans support state laws allowing for the sale and use of medicinal cannabis (<http://pewresearch.org/pubs/1548/broad-public-support-for-legalizing-medical.html>) and that 58% of Americans

C. Reconciliation of Federal & California Law

Under the Supremacy Clause to the U.S. Constitution, it is now well-established that Congress may, under certain limited circumstances, preempt state laws which are inconsistent with their federal counterparts (U.S. Const., art. VI, cl. 2; see also *Crosby v. Ogden*, (2000) 22 US 1, 211). Specifically, when the state law directly conflicts with federal law; stands as an obstacle to the accomplishment of a federal objective; or occupies a field where the federal statutory scheme is sufficiently comprehensive so as to leave no room for supplemental state regulation, the state law is preempted by its federal counterpart and void (*Viva! Internat. Voice for Animals v. Adidas Promotional Retail Operations, Inc.* (2007) 41 Cal.4th 929, 935).

In the present case, however, courts have determined that there is no conflict between the federal CSA, on the one hand, and California's CUA and MMPA, on the other, simply because Congress has chosen to prohibit the possession and use of medicinal cannabis while California has chosen otherwise (*City of Garden Grove v. Superior Court*, 157 Cal. App.4th (2003) 355, 358). Since the CUA and MMPA do not affirmatively *authorize* the possession or use of medicinal cannabis but merely *decriminalize* it under California law, courts have likewise determined that neither the CUA nor MMPA present an obstacle to the CSA's overall objective (*Id.* at 385), which is "...*combating drug use and controlling the legitimate and illegitimate trafficking of controlled substances ...*" (Gonzales at 16).

Courts have likewise acknowledged that applicable provisions of the CSA *itself* specifically delineate the degree to which Congress intended to occupy the CSA's subject matter. Specifically, within §903, the CSA expressly declares that Congress did *not* intend to occupy any field which would otherwise be subject to state regulatory authority *unless* a positive conflict existed with the corresponding state law such that it was impossible to comply with both (Qualified Patients Association at 760). Since nothing within California's CUA or MMPA affirmatively *require* individuals to violate the CSA or any other federal law, courts have concluded that it is ultimately possible to comply with all three laws (*Ibid.*). For these reasons, courts have concluded that the CUA and MMPA are not invalidated by the federal CSA (*Ibid.*).

The CSA likewise does not require local governments to exercise their zoning authority in any particular way and, unless the State law conflicts with the it, the federal CSA does not even apply to matters which would otherwise be regulated by the State (*Ibid.*). The regulation of land has – since time immemorial – been accomplished by local *state* officials through municipal zoning ordinances. For this reason, courts have expressly determined that municipalities which choose to regulate MMD's within their jurisdictions *do not* violate the federal CSA and local State officials *are not* subject to federal civil or criminal liability for doing so (*Ibid.*).

Local California municipalities are creatures of the State and *not* the federal government (Qualified Patients at 754). Consequently, federal officials are ultimately *not*

permitted to conscript local state officials to assist with the enforcement of the CSA (Ibid). By the same token, courts have also held that California law-enforcement personnel are likewise not permitted to use their authority to enforce the federal CSA or, for that matter, any other federal law which differs from the CUA or MMPA (Qualified Patients Assn. at pp 764-766).

California is not alone in its growing acceptance of cannabis (Qualified Patients Assn. at pp 763) and, as of the date of this letter, 21 other states plus the District of Columbia have likewise implemented laws which allow for the possession or sale of medicinal cannabis.⁷ In addition to states which have already enacted medicinal cannabis laws, there are also several other states which are expected to do so this year and the States of Colorado and Washington have already legalized cannabis for purely recreational use. In recognition of these factors, the Obama Administration has directed the U.S. Justice Department to focus its efforts on key enforcement criteria in these particular states.⁸

These criteria were clearly enumerated within a formal policy memorandum (the "Department Memorandum") dated August 29, 2013 and prepared by Deputy Attorney General James Cole. Within the Department Memorandum, Deputy Attorney General Cole expressly concluded that *"The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities..."*

In addition to clearly identifying the Department's enforcement criteria, the Department Memorandum likewise concluded that strong and effective *local regulations* could sufficiently address the Department's enforcement criteria in States which allow for the possession and sale of medicinal cannabis. Provided such regulations exist, the Department has concluded that enforcement of state law by *state and local regulatory bodies* should remain the primary means of addressing marijuana-related activity in states such as California.

2. Ordinance #1; MMD Permitting Ordinance

To enable the City to sufficiently regulate the proposed MMD, Ordinance #1 has been drafted to ensure full and complete compliance with both the MMPA and the Department's federal enforcement criteria. Please note that Ordinance #1 is based closely upon an MMD permitting ordinance which has *already* been successfully implemented by the City of Sacramento. Please also note that the City of Sacramento's MMD permitting ordinance was developed at significant expense over a period of almost 3 years and is based in large part upon input provided by the Sacramento Police Department.

Within Section 1 (A), Ordinance #1 amends the land-use chart contained Chapter 17.76 of the City's Municipal Code to allow MMD's within the City's CR and CH Zones subject to the requirements imposed by the amended and restated version of Chapter 17.162. Within Section 2, Ordinance #1 repeals and replaces Chapter 17.162 with a comprehensive

⁷ See chart published by Americans For Safe Access available at http://www.safeaccessnow.org/legislating_compassion.

⁸ See *Feds experiment with drugs, mellow-out on state marijuana law*, Washington Times, August 29, 2013 at <http://www.washingtontimes.com/news/2013/aug/29/obama-administration-oks-washington-colorado-marij/>

permitting ordinance that requires the MMD to obtain and maintain the MMD Permit which, under Section 040, is at all times non-transferrable. Under Section 050, the MMD Permit itself consists of both a business license and a conditional use permit (“CUP”).

As required by Section 070, the MMD must be located at least 600 feet from a Youth Oriented Facility, which include both schools as well as any location where people under the age of 18 are likely to congregate. The conditions associated with the MMD Permit can be found within Section 080, which is based upon both the MMPA and the AG Guidelines. To ensure they are not permitted to obtain cannabis, Para (B) prohibits minors from participating in the MMD’s operations in any way and only allows them to enter the MMD’s reception area if they are accompanied by a parent or legal guardian.

To ensure that the MMD’s operations do not result in drugged-driving or other adverse public health consequences, Para (C) strictly prohibits the consumption of any cannabis obtained from the MMD within a 400-foot radius unless it is within a private residence. Para (C) likewise requires the MMD to inform its members of this particular requirement and to assume complete responsibility for compliance. Failure to do so would of course entitle the City to revoke the CUP and terminate the MMD Permit.

To ensure that the MMD does not result in any secondary criminal activity, Para (C) requires the MMD to maintain an adequate security system and imposes other security-related requirements. Para (E) likewise provides City representatives with the right to inspect the MMD’s facility at any time and, upon request, to obtain copies of the MMD’s financial records to ensure full and complete financial transparency.

As a final condition to the MMD Permit, CHC would expressly consent to any and all impact mitigation fees imposed by the City within Para (F). As discussed, the decision as to whether an MMD may operate within the City limits is entirely at the discretion of the City Council (City of Riverside at 740). Consequently, since the City is not affirmatively required to issue the MMD Permit at all, the requirement imposed by Para (F) is ultimately given *in exchange* for the MMD Permit and, as such, represents a legally-binding contractual obligation.

3. Ordinance #2; Mitigation Impact Fee Ordinance

Under the CA Mitigation Impact Fee Act (Cal Gov. Code §§66000-66025), municipalities wishing to impose mitigation impact fees for the purpose of covering costs associated with a proposed development project must generally demonstrate a reasonable relationship between the fee and the municipality’s estimated costs (*City of Dublin v. County of Alameda* (1993) 14 Cal. App. 4th 264). The Act does not, however, specify how the municipality’s costs must be determined nor does it require any sort of specificity (Ibid). Instead, the Act only requires a reasonable relationship between the municipality’s fees and its estimated costs (Ibid).

Following the enactment of Ordinance #1, Ordinance #2 would subsequently amend Chapters 3.56.020, 030 and 040 of the Colfax Municipal Code to allow the City to

impose mitigation impact fees and to use those revenues for the purpose of funding the I-80 Project. Specifically, within Section 1, the City Council determines that the MMD's operations could reasonably be calculated to place additional burdens on the infrastructure within the I-80 Project Overlay, which would require additional roadway construction, improvements, studies and plans.

The City's Municipal Code currently permits the City to impose impact mitigation fees upon a "Development Project", which is defined within Section 020 as a project requiring a building permit. Consequently, Section 2 simply amends the definition of a "Development Project" to include the CUP required for the operation of the MMD. Sections 3 and 4 then amend, respectively, Chapters 3.56.030 and 040 of the City's Municipal Code to enable the City to impose its existing impact mitigation fees upon the MMD. Within Section 5, Ordinance #2 then imposes a 4% impact mitigation fee upon the MMD, which would at all times be held within the City's Roads Fund and used for roadway construction or roadway improvements, as well as studies or plans within the I-80 Project Overlay.

Summary & Conclusion

MMD's represent a legitimate land-use under California law and, in addition to the City of Sacramento, other local jurisdictions have likewise begun to consider MMD's as a potential source of jobs and revenues.⁹ In the present case, the City of Colfax actually *had* an MMD within its jurisdiction for almost 8 years without incident – *despite the fact* that the MMD was at the time completely unregulated. As such, the City's own experiences ultimately disprove many – if not most – of the arguments made against CHC's proposed MMD thus far.

As evidenced by the fact that approximately 10% of the City's entire population has expressly asked the Council to approve our client's proposed ordinances, CHC likewise enjoys widespread support within the local community for its proposed MMD.

Unlike before, CHC's facility would be tightly controlled and regulated through the CUP requirements needed for the MMD Permit. These requirements were specifically drafted to ensure full and complete compliance with both California law and the Department's federal CSA enforcement criteria. Should the CHC fail to comply with these requirements or, alternatively, should the Department's enforcement criteria ever change, the Council could simply revise the CUP requirements or even revoke the CUP at its discretion.

Following the approval of the enclosed Ordinances, the MMD would represent a valuable funding source to help ensure the success of the I-80 Project. Consequently, in accordance with CMC 17.52.030, Para A, we respectfully ask that the City Council motion for an amendment to CMC 17.162 to permit an MMD within the City of Colfax as a conditionally-permitted use.

⁹ <http://www.sacbee.com/2013/09/09/5718784/el-dorado-county-planning-panel.html>

The Council's careful consideration of this matter is greatly appreciated and we look forward to addressing any questions or providing any additional information the Council may have or require once this matter is placed upon the Agenda for discussion and public commentary. Should Council members or City staff have any questions or require additional information before then, they are of course welcome to contact me directly at any time.

Sincerely,



D. Kenneth Brock
Of Counsel

cc: Mr. Mark Miller, City Manager
City of Colfax, California

Mr. Mick Cabral, City Attorney
City of Colfax, California

Ms. Brigit Barnes, Planning Director
& Special Land-Use Counsel
City of Colfax, California

Ms. Stacie Younggren, Manager
Colfax Herbal Collective

Enclosures



CITY of COLFAX

C A L I F O R N I A

T • (530) 346-2313 F • (530) 346-6214 www.Colfax-CA.gov

33 S Main Street, PO Box 702, Colfax, CA 95713

BUSINESS LICENSE APPLICATION

- NEW
- RENEWAL
- CHANGE OF OWNERSHIP
- CHANGE OF ADDRESS
- RENTAL PROPERTY

BUSINESS INFORMATION	BUSINESS OWNER INFORMATION
FULL BUSINESS NAME CHC DBA (if applicable) Colfax Herbal Collective TELEPHONE NUMBER (include area code) (530) 305-8433 PHYSICAL ADDRESS 225 S. Railroad Street Colfax, CA 95713 MAILING ADDRESS Same as above TYPE OF BUSINESS (for example, Automotive Sales, Veterinary Clinic, etc.) medical marijuana collective BRIEFLY DESCRIBE BUSINESS ACTIVITIES facilitating the exchange of medical marijuana among CHC members. FEDERAL TAX ID # (or Social Security # if sole proprietor) 46-4723871 STATE BOARD OF EQUALIZATION RESALE # (if applicable) NA STATE CONTRACTORS LICENSE # (if applicable) NA IS THIS A HOME BUSINESS? (circle one) YES NO BUSINESS OWNERSHIP TYPE (circle one) SOLE PROPRIETORSHIP PARTNERSHIP CORPORATION NON-PROFIT TRUST	FULL NAME or NAME OF PARENT CORPORATION Ms. Stacie Younggren, Manager TELEPHONE NUMBER (include area code) (530) 305-8433 MAILING ADDRESS 499 Cape Vincent Court Colfax, CA 95713

OFFICE USE ONLY	
ANNUAL FEE \$ <input style="width: 100px;" type="text"/> PRORATED FEE \$ _____ *A.D.A. FEE \$ _____ TOTAL FEES PAID \$ _____ PAYMENT BY Check# _____ CASH \$ _____ CHARGE \$ _____	FEE BASIS _____ DATE RECEIVED _____ LICENSE EXPIRES _____ ACCEPTED BY _____
*Senate Bill 1186 (Chapter 383, Statutes of 2012, Steinberg) requires an additional fee of one dollar (\$1) to be paid by any person(s) applying for a local business license, or equivalent instrument, or permit, and any applicant renewing a business license, or equivalent instrument, or permit.	

ATTACHMENT "A"

CITY OF COLFAX, CALIFORNIA PETITION TO CITY COUNCIL

Colfax City Council
City of Colfax
33 S Main Street
Colfax, CA 95713
Attention: City Clerk

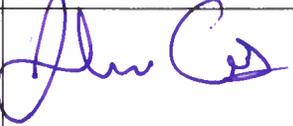
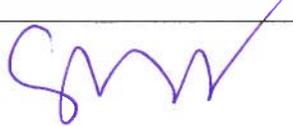
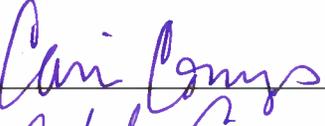
Re: Petition In Support of the Colfax Herbal Collective and Roadway Improvements

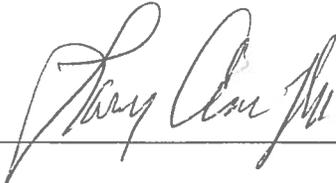
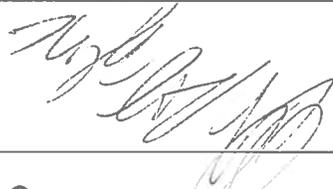
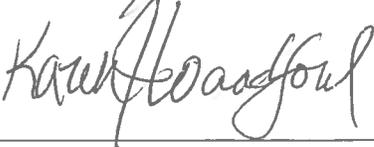
By signing this instrument, we agree and represent that we have read, understood and agree with the foregoing statements:

1. We, the residents of the Colfax, California have learned that the Colfax Herbal Collective (“CHC”), a medical cannabis collective, has recently proposed an ordinance which would allow it to open a medical cannabis dispensary within the City of Colfax.
2. The medical cannabis dispensary Colfax had before did not create any problems and the ordinance CHC has proposed would impose strict regulations on CHC’s dispensary.
3. CHC has also proposed an ordinance which would permit the City to impose a fee upon CHC’s gross receipts for the purpose of funding road construction and improvements.
4. The City’s current traffic problems reduce our quality of life and prevent us from bringing businesses and jobs into our community.
5. The City currently lacks sufficient funding to build and improve its roads and Placer County will not provide any financial assistance.
6. CHC has offered to help the City fund these projects but, before it can do so, the City must allow CHC to operate within the City limits.

Consequently, to help bring businesses and jobs into our community, we request that the City Council approve the ordinances proposed by CHC.

Print Name	Sign Name	Address	Date
Victor Nixon		222 W OAK ST COLFAX	1-26-14
Robin Fairres Robin James	Adam James	124 West Oak Colfax, CA. 95713	11/26/14
Jeannette Johnson	Jeannette Johnson	111 West Oak St. Colfax 95713	11-26-14
Ewen Chadwick	Ewen Chadwick	105 Pine Street Colfax, CA 95713	1/26/14
Yvette Gray	Yvette Gray	107 Pine St Colfax CA 95713	1/26/14
Robert Lin	Robert Hayes	29 W Lincoln St Colfax C.A.	1/26/14
Andrew Smith		155 Pine St Colfax	1/26/14
Debbie Inglis		333 Rose Ave Colfax	1/26/14
Georse Darden	D Darden	333 Rose Ave Colfax 95713	1/26/14
Krysta Williams	Krysta Williams	401 Rose Ave Colfax	1/26/14
Riley Williams		401 Rose Ave Colfax	1/26/14
James Nichols		145 Pine Street Colfax	1/26/14

Print Name	Sign Name	Address	Date
Victoria Shuttleworth		400 pinetop circle #16 colfax CA 95713	1/26/14
Kelly Woodin		#14 Pinetop Circle Colfax, CA 95713	1-26-14
John Granger		600 pinetop cir. #23	1/26/14
Sims Breton		400 pinetop #24	1/26/14
	Breanna Stein	Colfax	1-26-14
Came Conyers		#34 Pinetop Circle Colfax 95713	1-26-14
Ashlie Conyers		#34 Pine top Cir. Colfax	1/26/14
Rakeigh Parks		#34 Pinetop Circle Colfax 95713	1/26/14
Amber Grimm		#39 Pinetop Circle Colfax, CA 95713	1/26/14
Brandon Clark		#39 Pine top Cir. Colfax, CA 95713	1/26/14
Jason Barr		116 Mink Creek dr Colfax CA 95713	1/26/14
Mark Fuchs		116 Mink Creek dr Colfax CA 95713	1/26/14

Print Name	Sign Name	Address	Date
LARRY CAMPBELL		109 WINDER RD	1-26-14
Teresa Ashlock	Teresa Ashlock	155 Treasurton St	1/26/14
JAMES HARTSFIELD		145 BRASH VALLEY COLFAX, CA 95713	1/26/14
Lonna Whipple		1 Rising Sun Rd	1/26/14
Michael Weber		1 rising sun rd	1/26/14
GARY BROWN		5 SUNSET CIR COLFAX CA. 95713	1-26-14
	Kyle Grandy	122 West Church St COLFAX CA 95713	1-26-14
Brad Lee		110 West Church St	
Kris Johnson		125 Foresthill St.	1-26-14
William Wortel		32 North Star av.	1/26/14
DAVID WOODFORD		211 MARVIN AVE	1/26/14
Karen Woodford		211 Marvin ave	1/26/14

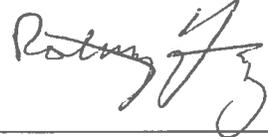
Print Name	Sign Name	Address	Date
MIKE TIMMONS	M. T.	117 W. Oak St. POB 876 COLFAX CA 95713	1-26-14
Dee Harrison	Dee Harrison	POB 876 117 W. Oak St. Colfax, Ca 95713	1-26-14
Craig Hilbert	Craig Hilbert	Po Box 582 121 W. Oak St. Colfax, CA 95713	
RONALD WYCOFF	Ronald Wycoff	131 W. Oak St Colfax Ca 95713	01/26/14
LINDA WYCOFF	Linda Wycoff	131 W. Oak ST Colfax Ca 95713	01/26/14
Michael Drost	Michael Drost	201 W. Oak St Colfax ca 95713	1/26/14
Jimmy Gonzalez	Jimmy Gonzalez	211 W. OAK ST COLFAX CA 95713	01/26/14
Dana Covell	Dana Covell	333 Rose Ave Colfax, Ca 95713	01/26/14
Don Kibel	Don Kibel	51 Washington St. Colfax, Ca 95713	01/26/14
Carla Murphy	Carla Murphy	51 Washington St Colfax, Ca 95713	1-26-14
Andrew [Signature]	Andrew [Signature]	333 Rose Ave Colfax ca 95713	1-26-14
Steven Turne	Steven Turne	123 Scharitz COLFAX CA 95713	1-26-14

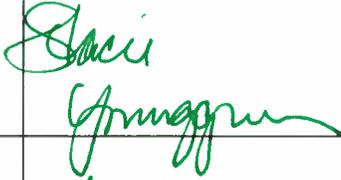
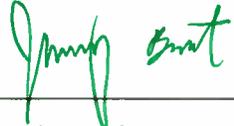
Print Name	Sign Name	Address	Date
Denise Turner	Denise Turner	123 Schut2 Ave Colfax, ca 95713	1-26-14
Mark Payne		500 Pine to #17 Colfax Ca 95713	1/26/14
Liana Brady	Liana Brady	700 Pinetop Cir #25 Colfax, Ca 95713	1/26/14
Sylvia Webb	J. E. Webb	700 Pine Top Circle #25 Colfax CA 95713	1/26/14
Jodi Webb	Jodi Webb	700 Pinetop Cir #28 Colfax, ca 95713	1/26/14
VERONICA GRIFFIN	Will	700 Pinetop Cir #35 Colfax CA 95713	1/26/14
Cody Webb	Cody Webb	1000 Pinetop Cir #41 Colfax Ca 95713	1/26/14
Madeline Rose	Madeline Rose	1000 Pinetop Cir #41 Colfax Ca 95713	1/26/14
KAREN BRIGHTING	Karen Brighting	221 Treasurer ST Colfax CA 95713	1/26/14
David WHITE Pat	David White	221 Treasurer St. Colfax, CA. 95713	1/26/14
Janet Masden	Janet Masden	218 Treasurer St. COLFAX, 95713	1-26-14
Joseph Robinson	J. D. R.	211 Treasurer St Colfax CA 95713	1-26-14

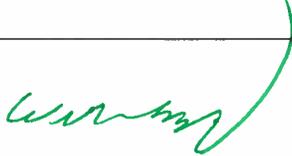
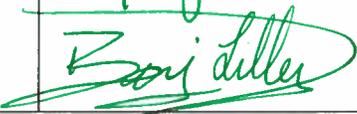
Schultz

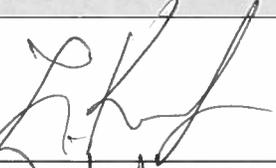
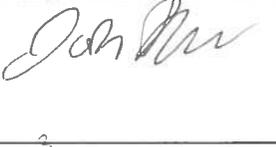
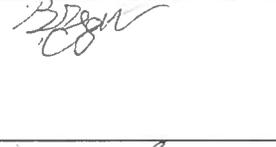
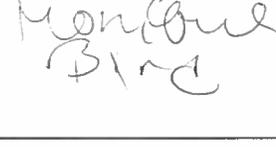
Name of Resident	Signature of Resident	Address of Resident	Date
JERRY BEST	Jerry Best	301 CANYON CREEK DR. APT. 40 COLFAX CA	1/18/14
Liz Cochran	Liz Cochran	301 Canyon Creek Dr. Apt. 40 Colfax CA	1/18/14
Gary Miller	Gary Miller	301 Canyon Creek Dr Apt #41 Colfax CA 95713	1/18/14
Chelsea O'Connor III	Chelsea O'Connor	301 canyon creek #43 Colfax, Ca 95713	1/18/14
MIKE O'CONNOR	Mike O'Connor	301 Canyon Creek #43 Colfax, CA 95713	1/18/14
Shawn Emerton	Shawn Emerton	301 Canyon Creek Dr #44 Colfax CA 95713	1/18/14
Nicole Genter	Nicole Genter	301 Canyon Creek Colfax, ca #46	1/18/14
Christopher Crawford	Christopher Crawford	301 canyon creek APT 47 colfax ca 95713	1/18/14
Mickey Burton	Mickey Burton	208 Canyon Creek Colfax 95713	1/18/14
Justin Corin	Justin Corin	35 north Auburn Colfax, ca	1/18/14
Brian Bowman	Brian Bowman	35 north Auburn Colfax, CA	1/18/14

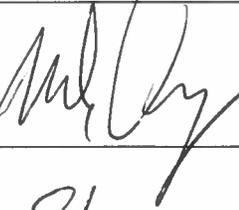
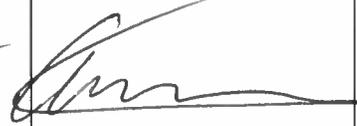
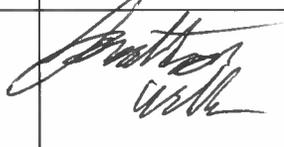
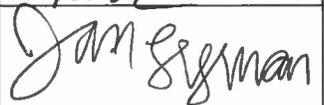
melissa	melissa	35 North Auburn Colfax, CA	1/18/14
Richard Miller	Richard Miller	499 Cape Vincent Colfax, CA	1/18/14
Heather Heather Worrell	Heather Worrell	35 N. Auburn St. Colfax, CA	1/18/14
Rocky Gordon	Rocky Gordon	26155 Green Ar Rd. 95713 Colfax	1/18/14
Lisa Jackson	Lisa Jackson	230 Pleasant Street	
Don DeLano	Don DeLano	340 PLEASANT STREET	1/18/14
Dennis Danner	Dennis Danner	403 Pleasant St - Colfax CA	1/18/30
Shyton	Shyton	324 Pleasant St Colfax Colfax	1/18/14
Michael Hayes	Michael Hayes	29 W Lincoln St	1/18/14
Bradley Noxon	Bradley Noxon	51 Gearhart Lane	1/18/14
Kurtis Noxon	Kurtis Noxon	51 Gearhart Lane	1/18/14

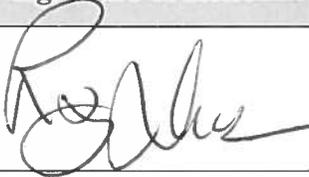
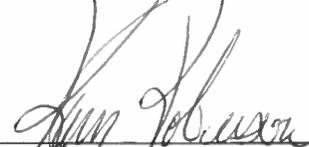
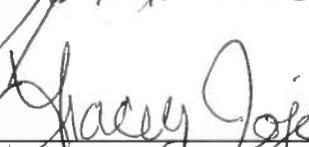
George Campbell		12 Gearhardt Colfax ca	4/18/14
Doug Klyce		5779 Norton Grade Colfax, Ca	1/18/14
Carrie Jens		25 W. CHURCH COLFAX, CA 95713	1/18/14
Scott LaBar		25 W. Church st COLFAX, CA 95713	1/18/14
Matt Revels	Matt Revels	17 S. Culver Colfax CA 95713	1/18/14
Rotney Young		17 S. Culver st #3 Colfax 95713	1/18/14
Daren Willey	Daren Willey	17 S. Culver St #1 Colfax, CA 95713	1/18/2014
Thomas Greathouse		55 Grassvalley St Colfax CA	1/18/14
Wayne Coleman		45 West Valley St Colfax CA	1/18/14
Heidi Scott		44 A. Colfax Ca 95713	1/18/14
MIKE MORI	Mike Mori	899 TAYLOR W. Colfax CA 95713	1/18/14

Name of Resident	Signature of Resident	Address of Resident	Date
Tamara Greenlee		301 Canyon Creek rd. #47 Colfax Ca. 95713	1/17/14
Stacie Younggren		499 Cape Vincent Colfax, CA 95713	1/18/14
Ty Aukerman			1/18/14
James Bangert		54 School St. Colfax, Ca 95713	1/18/14
Suzanne Meyer		45 School St Colfax, CA 95713	1/18/14
Leonard Noxon		111 School House Alley Colfax Ca 95713	1-18-14
Erika Noxon		111 School House Alley Colfax, CA 95713	1/18/14
Toni Robinson		PO BOX 245 Colfax	1/18/14
Bryan Yost			1/18/14
Correy Keeler		39 W church St Colfax 95713	1/18/14
Gary Johnson		420 Secret Town Ln	1/18/14

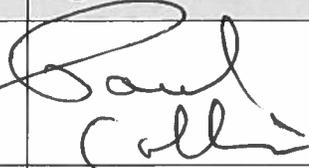
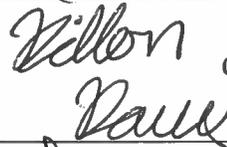
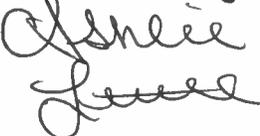
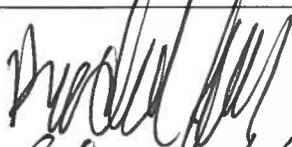
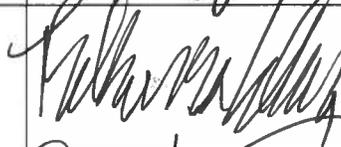
Print	Sign	Address	Date
PATRICIA Roch		26260 BARBOWINE LN	4/18
Connie Reisenweber		13388 Elderberry Ln Grass Valley 95945	4/18/14
BRAD ALEXANDER		COLFAX	4/18/14
Howard Mordell		Grass Valley	4/18/14
Brian Harrison		NEVADA CITY	4/18/14
Kelly Lincoln		Auburn	1/18/14
Will Lamm		Wilson	4/18/14
MIKE KELLY		MERIDON VISTA	4/18
LOUISIANA HANSTON		PEARSON	4/18
Kathy Brown		45 W. Grass Valley St.	4/18/14
Ben Lilley		44 Depot Alley	4/18/14

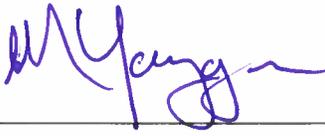
Name of Resident	Signature of Resident	Address of Resident	Date
Leslie Kavanaugh		200 S. Adams St #B	1/18/14
Doyie GARDNER ad		420 WEED WAY	1/18/14
Kevin HEGENAUER		Colfax	1/18/14
Sabrina Chavez		214 Canyon Creek Ct Colfax	1/18/14
- as attached		COL FAX	1/18/14
Dol Boyan Carrigan		Colfax 35 North Auburn	1/18/14
Monique Bird		Colfax 1040 Gladys	1/17/14
Kellie Folmer		1125 Pajaro hills Wintersville CA 95713	11/18/14
Steve Coller		Colfax CA	11/18/14
Raechel Mansfield		408 Murray Ct	11/18/14
Tyler Sykes		1040 Gladys	1/18/14

Name of Resident	Signature of Resident	Address of Resident	Date
MIKE KARCHER		248 Canyon Creek Cir Colfax CA	1/18/14
JENNY ARNOLD		247 Canyon CREEK CIR. Colfax CA	1/18/14
MARK VENABLE		704 W WILLIAMS CROSS RDS Colfax	1/18/14
Efrain Espinoza		1054 Towg Hill Rd Colfax CA	1/18/14
Ray Cale		301 Canyon Ct. Colfax CA	1/18/14
Shana Bernadi	Shauna Bernardi	1080 Cape Horn E. Colfax CA	1/18/14
Igor Airbinder		1080 Cape Horn E. Colfax, CA	1/18/14
Lauren Simmons		420 Secret Town Ln. Colfax, CA	1/18/14
Jonathon Webb		734 Highway 17H Colfax Ca.	1/18/14
Lawrence Burke		150 South Forest Hill St Colfax CA.	1/18/14
Jon Lyman		150 South Forest Hill St Colfax CA	1/18/14

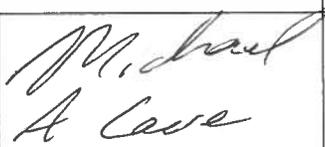
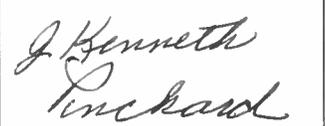
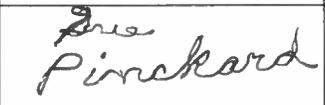
Name of Resident	Signature of Resident	Address of Resident	Date
RAY DEMARS		301 CANYON CR. COLFAX, CA.	1/18/14
Karole Miller		301 Canyon Creek Dr. #41 Colfax	1/18/14
Tyer Reincke		301 Canyon Creek Dr. #41 Colfax	1/18/14
Karen Roberson		275 Canyon Creek circle COLFAX CA 95713	1-18-14
Tracey Jojo		120 School House Alley Colfax, CA 95713	1-18-14
Chris Chavez	CHRISCHAVEZ	455 Pleasant Street	1-13-14
Matt Price	Matt Price	417 B Vedalane	1/18/14
Macis Parke	Macis Parke	417 B Veda lane	1/18/14
* Amberlee Cave	Amberlee Cave	354 N. Main St #3	1/18/14
Ammy Reynolds		PO Box 161 Chicago Park	1/18/14
JAMES ULKUS		P.O. 602 Colfax CA	1-18-14

Name of Resident	Signature of Resident	Address of Resident	Date
Aaron C. Merper	Aaron Merper	1330 christman Valley Road	1-18
Pats E Worrell	Pats Worrell	^{APT B} 35 N. Auburn Street Colfax, CA 95713	1/18/14
Briana Bangert	Briana Bangert	51 School St Colfax, CA 95713	1-18/14
JACQUEE CURR	Jacquie Curr	240 Pleasant St. Colfax, CA 95713	1/18/14
Ben Petrillo	Ben Petrillo	354 N. Main St Colfax, CA, 95713 ^{APT #2}	1/18/14
JON WORRELL	Jon Worrell	26208 Bardwire Ln Colfax CA 95713	11/18/14
Michael Reisenweber	Michael Reisenweber	13388 Elderberry Ln Grass Valley CA 95945	1/18/14
DAVID LEE	David Lee	118/14 207 CANYON VIEW	1/18/14
ASHLEE FEARON	Ashlee Fearon	219 SUNNYSIDE DR COLFAX, CA	1/18/14
Brandon Craven	Brandon Craven	269 Sunnyside Dr Colfax CA	1/18/14
Murshed Ali	Murshed Ali	1732 16 N. Bloom St Colfax	MRC

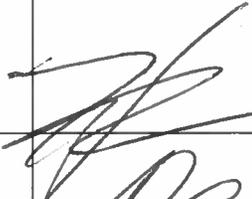
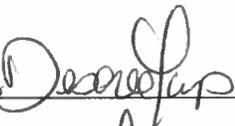
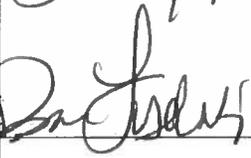
Name of Resident	Signature of Resident	Address of Resident	Date
Paul Collier		301 Cedar Ridge #24 Colfax	1-18-14
Dillon Davis		301 Cedar Ridge #24 PO box 1352 Colfax	1-18-14
Ashlie Little		PO Box 1352 Colfax	1-18-14
Austin Davis		PO box 1352 Colfax	1-18-14
Marte Weber		PO box #16 Pine Top Court 400	1-18-14
Michael Williams		17.5 culver Colfax CA 95713	1-18-14
Rachel Jordan		1035 Alpine Way Colfax, CA 95713	1-18-14
Thomas Long		1035 Alpine Way Colfax, CA 95713	1-18-14
Salena Wood		5 depot st. Colfax, CA	1-18-14
James Woodford		9 depot st. Colfax, CA.	1-18-14

Print Name	Sign Name	Address	Date
SERENE OWENS	Serene E Owens	118 Milk Creek Dr Colfax 95713	1-26-14
Jeff Boudreau		141 W.G.V. St Colfax CA	1-26-14
Brandon Merritt		40 Colfax Ave Colfax, CA	1-26-14
Mark Yarnappen		40A Cape Vincent St Colfax CA 95713	1-26-14
Emma Burke		150 S. Foresthill Dr. Ca. 95713	1/26/14
Rider Stead	Rider Stead	22 Foresthill St Colfax Ca.	1-26-14
Sara Wassberg	Sara Wassberg	204 marvin avenue	1-26-14
MONTE BREBNER	Monte Brebner	210 marvin ave.	1-26-14
Beau Hawkins	Beau L. Fuhri	55 Smith St.	1-26-14

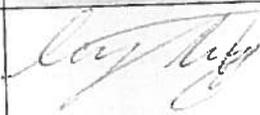
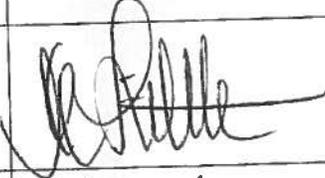
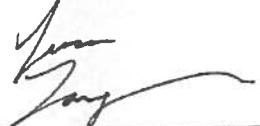
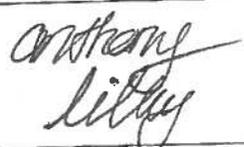
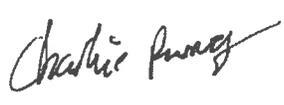
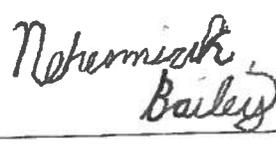
126 158
32 22
158 TR 01

Name of Resident	Signature of Resident	Address of Resident	Date
JOSEPH SCHWIND		30 SUNSET AVE. COLFAX CA. 95713	1-26-14
Michael A Cave		375 354 N. Main St. Colfax, Ca 95713	1-26-14
Rachel Smith		114 E Church St Colfax Ca 9713	1-26-14
J.K. Pinckard		34 S AUBURN ST COLFAX CA 95713	1-26-14
SUE PINCKARD		34 S AUBURN ST COLFAX CA 95713	1-26 14

James Viganaro	<i>James Viganaro</i>	30 N. Auburn St Colfax CA 95713	1/18/14
Janie Brown	<i>Janie Brown</i>	P.O. Box 1299 Colfax 95753	
James Jundka	<i>James Jundka</i>	<i>PO Box</i> 448 Colfax CA 95713	
Kyle Sioberg	<i>Kyle Sioberg</i>	1041 Golden Oak CT. Colfax Ca 95713	1/26/14
Miranda Beatty	<i>Miranda Beatty</i>	1055 Ror R Place Colfax CA 95713	1/26/14

Wahid Kazem		20881 placir 121113	1/18/14
Bobby Long		PO Box 1533 COLFAX CA 95713	1/8/14
DESEREE TONGER		2035 ALPINE WAY COLFAX CA 95713	1/18/14
Brian Lisanti		1035 ALPINEWAY COLFAX CA 95713	1/18/14

Kyle Hydner		334 N. Main St Colfax	4/18/14
Keegan W. Lindsey		29 west Lincoln St. Colfax	4/18/14
Scott Vinters		1380 OAK RIDGE Or	4/18/14

Name of Resident	Signature of Resident	Address of Resident	Date
Greg Tuhey		204 Glendale RD Colfax, CA, 95713	1/27/14
Amber Little		25075 Pineview Dr Colfax CA 95713	1/27/14
Jacob Little		25075 Pineview Dr Colfax CA 95713	1/27/14
THERESA SIKES		TRANSIENT COLFAX, CA 95713	1/27/14
TESSA LONGNECKER		504 B COLFAX PLEASANT ST. COLFAX CA 95713	1/27/14
THOMAS LONGNECKER		P.O. BOX 821 Colfax Ca 95713 11	1/27/14
Anthony Lilly		P.O. BOX 1151 Colfax CA 95713	1/27/14
Jonathan Lyman		301 Canyon Creek Dr. app #9	1/28/14
Charlie Perry		120 Pleasant St. Colfax CA 95713	1/28/14
Nehemiah Bailey		157 treasurton st. Colfax, Ca 95713	1/28/14
Jacob Oliver		44 Brown LN Colfax Ca 95713	1-28-14

ATTACHMENT "B"

Ordinance #1
MMD Permitting Ordinance (Proposed)

DRAFT

City of Colfax

[PROPOSED] ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX
AMENDING CHAPTER 17.76 AND
REPEALING AND REPLACING CHAPTER 17.162
OF THE COLFAX MUNICIPAL CODE**

WHEREAS, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code¹ Section 11362.5 et seq., and entitled "The Compassionate Use Act of 1996") to enable persons who are in need of marijuana for medical purposes to obtain and use marijuana under specific, limited circumstances without fear of criminal prosecution or sanction; and

WHEREAS, in 2004, the Legislature of the State of California enacted the Medical Marijuana Program Act (as codified within Sections 11362.7 through 11362.83 and herein referred to as "the MMPA") for the purpose of implementing the Compassionate Use Act; and

WHEREAS, in accordance with the authority granted to them by Article 6, Section 7 of the California Constitution, the MMPA permits California municipalities to restrict and regulate medical marijuana dispensaries ("MMD's") within their jurisdictions in a manner consistent with the provisions of the MMPA; and

WHEREAS, the California Supreme Court² has expressly concluded that the MMPA allows municipalities to restrict and regulate MMD's through the enactment and enforcement of zoning and other municipal ordinances; and

WHEREAS, other California cities which have enacted appropriate municipal ordinances for the purpose of restricting and regulating MMD's have successfully provided safe and lawful access to marijuana to those who need marijuana for medical purposes while addressing concerns regarding potentially-adverse secondary effects; and

WHEREAS the U.S. Justice Department (the "Department") has recently established clear enforcement priorities pertaining to the enforcement of the federal Controlled Substances Act; and

WHEREAS, the Department has concluded that, within states which permit the use of marijuana for medical purposes, state and local regulations can address the Department's enforcement priorities; and

WHEREAS, on October 14, 2009, Title 17 of the City's Municipal Code was amended to

¹ Unless otherwise specified, all unlabeled statutory references are to the California Health & Safe Code.

² *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729.

add Chapter 17.162, which prohibits MMD's within all of the City's zoning districts; and

WHEREAS, the City has received an application for a business license to open an MMD within the City's jurisdiction; and

WHEREAS, the Council has determined that it is in the best interests of the City to permit safe and lawful access to marijuana for those who need it for medical purposes; and

WHEREAS, the City Council wishes to establish a strong and effective regulatory system in accordance with its authority under the MMPA; and

WHEREAS, it is the specific intent of the City Council that this regulatory system should address the Department's enforcement criteria by: i) preventing the diversion or use of marijuana for recreational purposes; ii) prohibiting minors from accessing marijuana; and iii) creating a tightly-controlled mechanism for tracking any revenues generated by the MMD; and

WHEREAS, to establish this regulatory system, the City Council wishes to amend Title 17, Chapter 17.162 of the Colfax Municipal Code; and

WHEREAS, the City Council has found and determined, based on substantial evidence in the record before it: a) that the adoption of this Ordinance does not constitute a "project" as that term is defined by or used in the California Environmental Quality Act (California Public Resources Code Section 21000 et seq. hereinafter "CEQA"), the California Code of Regulations Title 14, Division 6, Chapter 3 "Guidelines for Implementation of the California Environmental Quality Act" (the "CEQA Guidelines") or any court or attorney general opinion construing the same. Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto; b) that this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines 15060(c)(2); and c) that, in the event that it is found that said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, or that CEQA or the CEQA Guidelines are otherwise applicable to this Ordinance, which finding would be contrary to the City's opinion of its action, the City Council hereby finds that said action is exempt from CEQA and the CEQA Guidelines because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA or the CEQA Guidelines (see CEQA Guidelines Section 15061(b)(3)). It can be seen with certainty that this Ordinance cannot possibly have a significant effect on the environment; and

WHEREAS, it is the City Council's intention that nothing in this Ordinance shall be deemed to condone or encourage the use of marijuana.

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

SECTION 1 – Chapter 17.76 Amendment. Chapter 17.76 of Title 17 of the City of Colfax Municipal Code is hereby amended as follows:

A. The Land-Use Chart set forth within Section 17.76.020, which sets forth the permitted uses for the City’s Commercial Zone Districts, is amended to include the following matrix:

OTHER LAND USE TYPES	C-R	C-H
Medical Marijuana Dispensaries ⁽¹⁵⁾	CUP	CUP

B. Footnote 15 is added to Section 17.76.020 to read as follows:

(15) Additional requirements are contained in Chapter 17.162.

SECTION 2 – Repeal and replacement of Chapter 17.162. Chapter 17.162 of Title 17 of the City of Colfax Municipal Code is hereby repealed and replaced in its entirety to read as follows:

Chapter 17.162 – Medical Marijuana Dispensaries

17.162.010 – Purpose and Intent.

It is the purpose and intent of this Chapter to regulate Medical Marijuana Dispensaries within the City of Colfax to promote and protect the health, safety and welfare of the City’s residents. The restrictions and regulations imposed upon Medical Marijuana Dispensaries within this Chapter are consistent with the California Compassionate Use Act and the Medical Marijuana Program Act.

17.162.020 – Definitions.

For the purpose of this Chapter, the following words and phrases shall have the same meanings respectively ascribed to them by this Section:

A. “Attorney General Guidelines” shall mean the *August, 2008 Guidelines For the Security and Non-Diversion of Marijuana Grown For Medical Use*, published by the California Attorney General as may be amended, revised or updated from time to time.

B. "Applicant" means a person who is requesting an MMD Permit from the City needed to operate a Medical Marijuana Dispensary.

C. “Attending Physician” shall mean the licensed physician who has recommended the medical use of marijuana for a Qualified Patient as defined within California Health and Safety Code section 11362.7(a) as may be amended from time-to-time.

D. "Medical Marijuana Dispensary" or "Dispensary" shall mean any facility or location fixed or mobile where medical marijuana is made available or distributed by a cooperative or collective to more than one Qualified Patient. For purposes of this Chapter, a "cooperative" or "collective" shall mean a member-based organization composed of four (4) or more Qualified Patients or Primary Caregivers which is organized and administered on a not-for-profit basis for the purpose of making marijuana available to Qualified Patients for medical purposes. A "Medical Marijuana Dispensary" shall not include the following uses for so long as the location of such uses are otherwise regulated by this Code or applicable law: i) a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; ii) a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; iii) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; iv) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; v) a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

E. "Dispensary Property" shall mean the parcel of real property, or any portion thereof, where the Applicant wishes to operate a Medical Marijuana Dispensary.

F. "MMD Permit" shall collectively mean the business license issued in accordance with Chapter 5.08 of the City's Municipal Code and the conditional use permit described herein.

G. "Person" shall mean any individual or artificial person, including but not to any corporation, limited liability company, partnership, association or other business entity.

H. "Primary Caregiver" shall mean an individual over the age of 18 who assumes consistent and ongoing care for a Qualified Patient and who has Written Documentation from a Qualified Patient to serve as his or her Primary Caregiver. For purposes of this Chapter, "Primary Caregiver" shall have the same meaning set forth within California Health and Safety Code Section 11362.7(d), as may be amended from time to time.

I. "Qualified Patient" shall mean an individual over the age of 18 whose Attending Physician has recommended the use of marijuana for medical purposes and who possesses Written Documentation. For purposes of this Chapter, "Qualified Patient" shall have the same meaning set forth within California Health and Safety Code Section 11362.7(f),

J. "Records" shall mean any and all reports, financial ledgers, statement of accounts or other organizational or financial documentation pertaining to the formation, management or day-to-day operation of a Dispensary. For purposes of this Chapter, "Records" shall specifically exclude private medical records pertaining to a Qualified Patient, including a Qualified Patient's Written Documentation, a written designation from a Qualified Patient appointing a Primary Caregiver or any other document for which disclosure would result in the violation of applicable privacy laws.

K. "Written Documentation" shall mean a written copy of the recommendation made to a Qualified Patient by an Attending Physician for the medical use of marijuana. For purposes of this Chapter, "Written Documentation" shall have the same meaning set forth within California Health

and Safety Code section 11362.7(i) as may be amended from time to time.

L. “Youth Oriented Facility” shall mean any nursery school, kindergarten, elementary school, middle or junior high school, senior high school, institution of learning or other facility utilized primarily by persons under the age of 18. For purposes of this Chapter, a “Youth Oriented Facility” shall likewise include any establishment where those who regularly patronize, congregate or assemble are primarily persons under the age of 18.

17.162.030 – MMD Permit Required.

It shall be unlawful within the City of Colfax for any Person to operate a Medical Marijuana Dispensary within any zone district without first having secured an MMD Permit in accordance with the provisions of this Chapter.

17.162.040 – MMD Permit Non-Transferrable.

The MMD Permit provided for by this Chapter shall not be deemed to be “property” and may not be assigned, transferred, sold or encumbered. Any attempts to assign, transfer, sell or encumber the MMD Permit shall be null, void and to no effect and shall result in the immediate revocation of the MMD Permit.

17.162.050 – MMD Permit Applications.

The contents of the MMD Permit application shall include the following:

1. A complete application for a business license plus any fees called for within Chapter 5.08 of the City’s Municipal Code. Applicants shall utilize the application form provided by the City to apply for the required business license as may be amended from time-to-time.

2. A Planning Department conditional use permit application which shall include:

a) A minimum deposit sufficient to cover the cost of an appropriate conditional use permit; and

b) The following general application materials currently required by the Planning Department for all conditional use permit applications as may be updated or amended from time-to-time: i) a signed and completed Planning Application Form and Agreement to Pay; ii) a list of property owners, street and mailing addresses and assessor’s parcel numbers within a 400’ radius of the Dispensary Property along with addressed, stamped envelopes for each property owner; iii) a 400’ foot radius map identifying the Dispensary Property with a clearly marked radius area and list of all property owners within a 400’ radius of the Dispensary Property; iv) 2 copies of a preliminary title report for the Dispensary Property; v) a signed, completed Initial Study Environmental Assessment form; vi) 5 copies of plan sets folded to 8.5” by 11”, which shall be scaled and shall include the outline of all structures, driveways, parking and landscaped areas and boundaries of the Dispensary Property; vii) a detailed Project description; and viii) 3 CD-ROM’s containing electronic copies of the above-referenced materials.

c) A detailed security plan, including a scaled floor plan for the interior of the Dispensary's building, which demonstrates compliance with the security requirements imposed by this Chapter.

d) A copy of the Dispensary's commercial general liability insurance policy demonstrating that the Dispensary maintains general liability coverage of at least \$2 million dollars.

e) A copy of a current and valid seller's permit issued by the California Board of Equalization.

f) A plan of operations which demonstrates how the MMD will operate in a manner consistent with the Attorney General Guidelines and the Department's conclusions. The plan of operations shall describe how the Applicant intends to ensure: a) that medical marijuana is not purchased or sold by the Dispensary in a manner which generates a profit; b) that medical marijuana is only distributed to the Dispensary's Qualified Patients; and c) that minors are not provided access to marijuana.

3. Should the Applicant submit the business license and conditional use permit applications separately, the applicable MMD Permit application date shall be the submission date of the first such application.

4. The MMD Permit shall be valid for a period of one (1) year once it is issued and must be renewed annually as a condition to the Dispensary's continued operation.

17.162.060 – MMD Permit Application Criteria.

Upon receipt, the Planning Department shall first review the MMD Permit application to ensure it is complete. If the Planning Department determines that the MMD Permit application is complete and, provided the Applicant has paid all applicable fees and meets the requirements of this Chapter, the MMD Permit application shall be approved. Following approval, the City shall issue the Applicant's business license along with an approval letter, which shall represent documentary evidence of the MMD Permit, shall be issued. If the Applicant should fail to meet the requirements of this Chapter, the Planning Director shall deny the MMD Permit application and provide the Applicant with written notice of such denial within three (3) business days thereafter.

1. The Applicant shall not have any felony convictions nor any misdemeanor convictions for crimes involving theft, unlawful sexual conduct, violence, fraud or drug-related crimes, including but not limited to convictions involving the cultivation, possession or distribution of marijuana. The City shall at all times be entitled to conduct a background check to confirm that this criteria has been satisfied.

2. The Dispensary Property must be in a commercial-retail (CR) or commercial-highway (CH) zone and must meet the location requirements of this Chapter.

3. The Applicant must sufficiently describe in written form how each of the location and operational requirements of this Chapter shall be satisfied upon receipt of an MMD Permit. In doing so, the Applicant may provide additional documentation demonstrating Applicant's compliance with these requirements.

17.162.070 – Location & Land-Use Requirements.

1. The City shall not grant more than one (1) MMD Permit and an Applicant may not apply for more than one (1) MMD Permit for the same Dispensary Property nor may an Applicant apply for an MMD Permit while another MMD Permit application for the same Dispensary Property is pending.

2. A Dispensary may only be located within a Commercial Zone District which is not subject to a Residential/Commercial or Historic District Overlay.

3. A Dispensary may at no time be located within 600 feet of an existing Youth Oriented Facility. The distance between a Dispensary and these uses shall be calculated using a straight line from the closest point on the Dispensary Property to the closest point on the parcel subject to those particular uses.

17.162.080 – MMD Permit Conditions.

As a condition to the MMD Permit, the Applicant shall at all times ensure that the Dispensary complies and operates in accordance with the following conditions:

A. Dispensary Operations.

1. The operation of the Dispensary shall at all times be conducted in strict accordance with the requirements of this Chapter and the Attorney General Guidelines.

2. A Dispensary shall only possess marijuana in a quantity sufficient to meet the medical needs of its Qualified Patients.

3. Except for immature, nursery stock marijuana plants, marijuana may at no time be grown, cultivated or processed at the Dispensary Property.

4. The Dispensary shall only obtain and distribute marijuana from its members who will at all times be Qualified Patients or Primary Caregivers with valid and current Written Documentation. Primary Caregivers wishing to join the Dispensary must provide written authorization from their Qualified Patient, along with a copy of his or her Written Documentation.

5. Prior to dispensing marijuana, the Dispensary shall require each Qualified Patient or Primary Caregiver wishing to join the Dispensary to complete a written application and agreement in which they contractually agree to refrain from: i) the distribution of marijuana to any Person who is not a member of the Dispensary; ii) the use of marijuana for non-medical purposes; and iii) the violation of any applicable requirement imposed by this Chapter.

6. There shall be no sale or consumption of alcohol or tobacco at the Dispensary Property.
7. A Dispensary shall dispense medical marijuana in a container which contains the name of the Dispensary, along with a telephone and identification number to establish that the medical marijuana was dispensed for the exclusive use of a Qualified Patient.
8. The Dispensary shall provide the City or its authorized representative with the name and phone number of a staff person to notify at any time both during and after business hours in the event there are any operational compliance issues.
9. The Dispensary may operate only between the hours of 8:00 a.m. to 9:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday and Sunday.

B. Minors.

1. The Dispensary may not at any time employ any Person under the age of eighteen (18) nor shall the Dispensary permit any such Person to volunteer or in any way participate in the cultivation or distribution of marijuana.
2. Provided they are accompanied by their parent or legal guardian, Persons under the age of eighteen (18) may be permitted within the reception area, but may at no time be allowed entrance to any portion of the Dispensary's building where marijuana is stored or distributed.

C. Management of Dispensary Property.

1. Other than consumption which occurs within a private residence, marijuana obtained from the Dispensary may at no time be consumed within a 400 radius of the Dispensary Property. The Dispensary shall take any and all reasonable measures to sufficiently notify its members of this requirement and shall at all times be responsible for compliance.
2. The operation of the Dispensary shall not result in repeated nuisance activities, including but not limited to illegal drug activities, public intoxication, theft, assaults, batteries, vandalism, excessively loud noises, curfew violations or lewd or disruptive conduct.
3. Litter shall at all times be removed daily from the Dispensary Property and graffiti shall be removed within forty-eight (48) hours of application.
4. A Dispensary shall at all times maintain an adequate ventilation system that ensures that odors from the Dispensary's operation are not detectible off-site.
5. The Dispensary shall at all times display its MMD Permit in a conspicuous place so that it may be readily seen by all persons entering the Dispensary.

D. Security.

1. Only Qualified Patients, Primary Caregivers or those with bona-fide purposes for entering the Dispensary's building shall be permitted to do so.
2. The Dispensary shall actively monitor activities at the Dispensary Property to prevent loitering and to control access to and from the Dispensary building.
3. The Dispensary shall have a waiting area at the entrance to receive clients and a separate and secure area for dispensing marijuana to Qualified Patients or Primary Caregivers.
4. The exterior of the Dispensary's building shall be illuminated during all hours of darkness both during and after the Dispensary's hours of operation.
5. A Dispensary shall have a suitable locked safe within the Dispensary building for the storage of marijuana after business hours and marijuana shall at all times remain locked within the safe except during normal business hours.
6. The Dispensary shall maintain security surveillance cameras, which shall be installed to monitor the main entrance and exterior of the Dispensary Property for the purpose of discouraging loitering, crime or nuisance activities. Security video shall be maintained for at least thirty (30) days and shall be made available to the City or its designated representative upon request.
7. A Dispensary shall install and maintain a professionally monitored alarm system in good working condition.

E. Records & Documentation.

1. The Dispensary shall at all times maintain its Records at the Dispensary building and, upon request, shall make such Records available to the City or its authorized representative. For purposes of this Chapter, such Records shall specifically include but not be limited to transaction logs, financial records, such as accounts payable, accounts receivable, cash flow statements, income statements, balance sheets and federal and state tax returns.
2. The Dispensary shall maintain and, upon request, shall make Records available to the City sufficient to demonstrate that the Dispensary is organized and operated on a not-for-profit basis.
3. The Dispensary shall provide the City or its designated representative with any and all documentation reasonably requested to confirm payment of any and all sales, use or employee taxes or withholdings required under applicable federal, state or municipal law.
4. The City shall have the right to inspect the Dispensary's Records at all reasonable times during regular business hours provided, however, a subpoena shall first be obtained prior to inspection when required by state or federal law.

F. Mitigation Impact Fees.

The Applicant shall expressly consent and agree to any impact mitigation fees reasonably enacted or imposed by the City Council for the purpose of mitigating any costs, including but not limited to administrative costs or costs incurred by the City due to the additional burdens placed upon its infrastructure, arising from the Dispensary's operations. The Dispensary shall likewise timely pay any such fees which the City may from time-to-time enact or impose.

17.162.090 – Suspension, Revocation & Appeals.

A. The MMD Permit may be revoked by the City when, based on the evidence, it appears that the Dispensary has violated any of the terms or requirements of either the business license or the conditional use permit set forth within this Chapter.

B. The MMD Permit may be revoked should subsequent changes in California law render the MMD Permit or the continued operation of the MMD unlawful under California law.

C. The MMD Permit may be revoked should the Department's current position regarding the consistency of federal enforcement priorities and the regulation of marijuana-related activities by state and local officials be rescinded or revised.

D. Revocations of the business license shall be accomplished in accordance with Section 5.04.280 of the Colfax Municipal Code. Appeals regarding the revocation of the business license shall be conducted in accordance with Section 5.05.230 of the Colfax Municipal Code.

E. Revocations of the conditional use permit shall be accomplished in accordance with Chapter 17.56 of the Colfax Municipal Code. Appeals regarding the revocation shall be conducted in accordance with Chapter 17.56 of the Colfax Municipal Code.

17.162.100 – Penalty Provisions.

A. Violation of any provision of this Chapter is a misdemeanor unless (1) the city attorney authorizes issuance of an infraction citation or files, or authorizes the filing of, a complaint charging the offense as an infraction or (2) a court with jurisdiction over the matter, upon recommendation of the city attorney, determines that the offense should be prosecuted as an infraction.

B. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes any violation thereof, and shall be penalized accordingly.

17.162.110 – Civil and Administrative Remedies.

A. The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and shall, in the city's discretion, be prosecuted as such and subject to all remedies allowed by law.

B. In addition to the criminal penalties and civil remedies set forth above, any violation of any provision of this chapter shall, in the city's discretion, be subject to any administrative remedies presently or hereafter allowed under the Colfax Municipal Code.

SECTION 3 – Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Chapter. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 4 – Effective Date.

This ordinance shall be in full force and effect following its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Colfax on _____, 2014 and passed and adopted at a regular meeting of the City Council of the City of Colfax on _____, 2014 by the following vote:

- Ayes:
- Noes:
- Absent:
- Abstain:

Tony Hesch, Mayor

ATTEST:

Mark Miller, City Manager

Ordinance #2

Mitigation Impact Fee Ordinance (Proposed)

DRAFT

City of Colfax

[PROPOSED] ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLFAX
AMENDING CHAPTERS 3.56.020, 3.56.030 and 3.56.040
OF THE COLFAX MUNICIPAL CODE
TO IMPOSE APPROPRIATE MITIGATION IMPACT FEES UPON
MEDICAL MARIJUANA DISPENSARIES OPERATING WITHIN THE CITY LIMITS**

WHEREAS, through the enactment of Ordinance No. _____, the Council has amended Chapter 17.76 and repealed and replaced Chapter 17.162 of the City's Municipal Code to allow a medical marijuana dispensary (the "MMD") to operate as a conditionally-permitted use within the City's Commercial Zone districts; and

WHEREAS, the City Council would like to mitigate any additional costs incurred by the City due to the increased use of its infrastructure caused by the MMD's operation; and

WHEREAS, to mitigate any such additional costs, the City Council would like to amend Chapters 3.56.030, 3.56.040 and 3.56.050 of the City's Municipal Code.

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

SECTION 1 – Findings.

1. The foregoing Recitals are true and correct and are hereby made a part of this Ordinance.
2. Chapter 17.162.030 requires those wishing to operate an MMD within the City to obtain an MMD Permit.
3. True and correct copies of the City's most-recent Zoning Map and a Commercial Corridor Study Map depicting the location of the I-80 Project Overlay are collectively attached and incorporated herein by reference as Attachment "A".
4. One of the primary purposes of the I-80 Project was to address and correct existing traffic problems within the City by constructing and improving the City's roadways.
5. The Council believes that the increased traffic caused by the operation of the MMD may place additional burdens upon the infrastructure which would cause the City to incur additional costs for the construction or improvement of roadways, as well as additional costs for necessary studies and planning-related work, within the I-80 Project Overlay.

6. The Council further believes that there exists a reasonable nexus between these resulting costs to the City and the relative number of transactions which take place at the MMD.

7. The City's Municipal Code permits the City to impose roadway mitigation impact fees for development projects and to utilize these fees for the construction and improvement of roads, as well as appropriate study and planning costs.

8. The amendments to the City's Municipal Code set forth herein are consistent with the requirements imposed by the California Mitigation Fee Act (Gov. Code, § 66000 et seq.), as well as applicable provisions of the City's Municipal Code.

9. The City Council has found and determined, based on substantial evidence in the record before it: a) that the adoption of this Ordinance does not constitute a "project" as that term is defined by or used in the California Environmental Quality Act (California Public Resources Code Section 21000 et seq. hereinafter "CEQA"), the California Code of Regulations Title 14, Division 6, Chapter 3 "Guidelines for Implementation of the California Environmental Quality Act" (the "CEQA Guidelines") or any court or attorney general opinion construing the same. Accordingly, the City Council finds that the provisions of CEQA and the CEQA Guidelines are not applicable thereto; b) that this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines 15060(c)(2)); and c) that, in the event that it is found that said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, or that CEQA or the CEQA Guidelines are otherwise applicable to this Ordinance, which finding would be contrary to the City's opinion of its action, the City Council hereby finds that said action is exempt from CEQA and the CEQA Guidelines because it is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA or the CEQA Guidelines (see CEQA Guidelines Section 15061(b)(3)). It can be seen with certainty that this Ordinance cannot possibly have a significant effect on the environment.

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

SECTION 2 – The last sentence of Paragraph A of Chapter 3.56.020 of the Colfax Municipal Code is hereby amended to read as follows:

The term "Development Project" shall also include permits for erection of manufactured housing or structures, and structures moved into the City, as well as conditional use permits issued for the operation of medical marijuana dispensaries within the City.

SECTION 3 - The first sentence of Chapter 3.56.030 of the Colfax Municipal Code is hereby amended to read as follows:

The following mitigation impact fees are hereby established and imposed on the issuance of all building permits or conditional use permits for medical marijuana dispensaries for

development within the city of Colfax to finance the cost of the following categories of public facilities and improvements required by the new development.

SECTION 4 – Chapter 3.56.040 of the Colfax Municipal Code is hereby amended to include the following additional paragraph:

C. Any person who, after the effective date of the ordinance codified in this chapter, is issued a conditional use permit for the operation of a medical marijuana dispensary within the City is required to pay the appropriate mitigation impact fees established pursuant to Section 3.56.030 as the same may be applicable, in the manner, amount and for the purposes therein referenced.

SECTION 5 – A roadway mitigation impact fee is hereby imposed upon any person who is issued a conditional use permit for the operation of an MMD within the City. The mitigation impact fee shall be four percent (4%) of the MMD's gross receipts, which shall be due and payable on the first business day of each month. In accordance with Paragraph A of Chapter 3.56.050 of the Colfax Municipal Code, impact mitigation fees shall at all times be held within the Roads Fund for the purpose of paying any actual or estimated costs for the construction of improvements of roads, as well as appropriate study and planning costs.

SECTION 6 – SEVERABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Chapter. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 7 – EFFECTIVE DATE.

This ordinance shall be in full force and effect thirty (30) days from its adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Colfax on _____, 2014 and passed and adopted at a regular meeting of the City Council of the City of Colfax on _____, 2014 by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Tony Hesch, Mayor

ATTEST:

Karen Pierce, City Clerk

DRAFT

Attachment "A"

DRAFT