CITY COUNCIL MEETING

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

MAYOR TOM PARNHAM • MAYOR PRO-TEM STEVE HARVEY
COUNCILMEMBERS • KIM DOUGLASS • TONY HESCH • WILL STOCKWIN

REGULAR MEETING AGENDA
February 10, 2016
Closed Session 6:00 PM · Regular Session 7:00 PM

1) CONVENE CLOSED SESSION

1A. **Call Closed Session to Order**
1B. **Roll Call**
1C. **Public Comment – Closed Session Items**
1D. **Closed Session Agenda**
Conference with Labor Negotiators pursuant To Government Code Section 54957.6 Employee Organization: General Employees and Bargaining Unit Represented by Operating Engineers, Local 39 City's Designated Representative: Mark Miller

2) OPEN SESSION

2A. **Call Open Session to Order**
2B. **Pledge of Allegiance**
2C. **Report from Closed Session**
2D. **Roll Call**
2E. **Approval of Agenda Order**
This is the time for changes to the agenda to be considered including removal, postponement, or change to the agenda sequence.
RECOMMENDED ACTION: By motion, accept the agenda as presented or amended.

3) PRESENTATION

Solutions for the Bark Beetle Kill
Steve Garcia, Unit Forester, CALFire Nevada-Yuba-Placer Unit

4) CONSENT CALENDAR

All matters listed under the Consent Agenda are considered routine in nature and will be approved by one blanket motion with a roll call vote. There will be no separate discussion of these items unless persons request specific items to be removed from the Consent Agenda for discussion and separate action. Any items removed will be considered after the motion to approve the Consent Agenda. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the City staff.

RECOMMENDED ACTION: Approve Consent Calendar
4A. **Minutes City Council Meeting of January 27, 2016**
Recommendation: Approve the Minutes of the Regular Meeting of January 27, 2016.

5) COUNCIL, STAFF AND OTHER REPORTS

The purpose of these reports is to provide information to the Council and public on projects, programs, and issues discussed at committee meetings and other items of Colfax related information. No decisions will be made on these issues. If a member of the Council prefers formal action be taken on any committee reports or other information, the issue will be placed on a future Council meeting agenda.
5A. **Committee Reports and Colfax Informational Items - All Councilmembers**
5B. **City Operations Update – City staff**
5C. **Additional Reports – Agency partners**

6) PUBLIC COMMENT

Members of the audience are permitted to address the Council on matters of concern to the public within the subject jurisdiction of the City Council 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.

7) COUNCIL BUSINESS

7A. **Winner Chevrolet Agreement**
STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Verbal Update

7B. **Mobile 311 Update**
STAFF PRESENTATION: Travis Berry, Technical Services Manager
RECOMMENDATION: Verbal Update for Information Only

8) PUBLIC HEARING

NOTICE TO THE PUBLIC: City Council will take the following actions when considering a matter scheduled for hearing:	
1. Open the public hearing	2. Presentation by staff
3. Council comments and questions	4. Accept public testimony
5. Council comments and questions	6. City Council or Planning Commission action
Public hearings that are continued will be announced. The continued public hearing will be listed on a subsequent Council Meeting Agenda and posting of that agenda will serve as notice.	
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.	

8A. **Second Reading of Ordinance № 528: An Urgency Ordinance of the City of Colfax Amending Colfax Municipal Code Title 17, Chapter 17.162 Prohibiting the Cultivation and Delivery of Marijuana and the Operation of Medical Marijuana Dispensaries in the City of Colfax, an interim urgency ordinance to be effective until the November 8, 2015 Election at will time a measure will be placed on the Ballot to determine the will of the people.**
STAFF PRESENTATION: Mick Cabral, City Attorney
RECOMMENDATION: Conduct A Public Hearing, Discuss, Waive The Second Reading, And Adopt Ordinance № 528, An Urgency Ordinance of the City of Colfax Amending Colfax Municipal Code Title 17, Chapter 17.162 Prohibiting the Cultivation and Delivery of Marijuana and the Operation of Medical Marijuana Dispensaries in the City of Colfax, an interim urgency ordinance to be effective until the November 8, 2016 election at which time a measure will be placed on the ballot to determine the will of the people.

9) 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

Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to, said public hearing.

City Council Minutes
Regular Meeting of Wednesday, January 27, 2016
City Hall Council Chambers • 33 S. Main Street, Colfax CA

1 CONVENE REGULAR COUNCIL MEETING

1A. Mayor Parnham called the meeting to order at 6:00PM.
1B. **Pledge of Allegiance:** Councilmember Stockwin led the Pledge of Allegiance
1C. **Roll Call**
Councilmembers present: Douglass, Harvey, Hesch, Parnham, and Stockwin
Absent: None
1D. **Approval of Agenda**

On a motion by Councilmember Douglass, seconded by Mayor Pro Tem Harvey, the City Council approved the agenda.
AYES: Douglass, Harvey, Hesch, Parnham, Stockwin
ABSENT: None

2 WORKSHOP

2A. **Circulation Element and Potential Traffic Improvement**
City Manager Miller introduced the workshop topic. The Circulation Element of the Colfax General Plan (GP) contains outdated language which is an impediment to development. The Council Committee to evaluate the Circulation Element discussed several options and this workshop is a result of their efforts.
Planning Director Amy Feagans offered some background regarding the need to change the wording of the General Plan document. She stated the Committee recommends changing only the Circulation Element because updating the entire GP would be cost prohibitive with a minimum cost of $50,000.
Council, members of the public, and staff discussed determining an appropriate viewpoint for a Circulation Element. The current document measures traffic at each individual intersection, giving the intersections letter grades. It would be more effective to take a more global approach to traffic within the City and look at Vehicle Miles Traveled (VMT).
Matt Brogan, division manager for Mark Thomas and Company, introduced the concept of putting a roundabout at the intersection on S Auburn in front of the vacant lot between McDonalds and Mountain Village. A roundabout is significantly less expensive than a stoplight and would create a better traffic flow for the on and off ramps of I-80. He feels that there is a 75-80% chance that Caltrans would approve of a roundabout at that location. This type of project would take 18 to 24 months for approval and then an additional 6 to 9 months to construct.
The discussion also covered including pedestrian and bicycle pathways in the design. In addition, creating an overall connection between existing developments at the Sierra Market and with Hanson Brothers should be considered to route local traffic away from the highway frontage.

Council's consensus is to move forward with the proposed plan to change only the Circulation Element and to pursue the concept of a roundabout on S. Auburn intersection. Council also instructed staff to ensure that Council has input to determine which incentives and mitigations are the responsibilities of developers.

Council recessed for a short break and reconvened at 7:06.

A local scout troop joined the meeting and Mayor Parnham selected a member of the troop, Richie Robinowitz, to lead the Pledge of Allegiance.

3 PRESENTATION

3A. **Introduce New Colfax Librarian Amie Toepfer**
City Manager Miller commented the City is thankful for a librarian who is committed to serving Colfax at the local library. He introduced Mary George, Placer County Director of Library Services. Ms. George introduced Amie Toepfer, a native Colfaxian and the first librarian with a Masters in Library Science to direct the Colfax branch.
Amie Toepfer stated she has come full circle. She started her career at the Colfax Library as a Library Page and she is delighted to return to manage her hometown library. The library offers children and adult services including story time, homework/research help, computer assistance and resume building. Two new programs will begin in February: "Picture Book Chat" which will be held the first Tuesday of each month from 5:15-5:45 explaining how adults can enjoy picture books as much as children, and "Starting From Seed" held on February 23rd from 4:30-5:30 to introduce adults to gardening techniques and books. Seeds and peat pots will be supplied. Both events are free.

4 CONSENT CALENDAR

4A. **Minutes City Council Meeting of January 13, 2016**
RECOMMENDATION: Approve the Minutes of the Regular Meeting of January 13, 2016.

4B. **Cash Summary Report – December, 2015**
RECOMMENDATION: Receive and File.

4C. **Quarterly Investment – December, 2015**
RECOMMENDATION: Receive and File.

4D. **Plumbing Modifications for Dual Train Process Control at the Wastewater Treatment Facility**
RECOMMENDATION: Adopt Resolution 05-2016 Authorizing the City Manager to Execute an Agreement with Commercial Pump Service, Inc. for Plumbing Modifications of Critical Treatment Processes at the Wastewater Treatment Facility in the Estimated Amount of $13,108.48.

On a motion by Mayor Pro Tem Harvey, seconded by Councilmember Stockwin, Council approved the Consent Calendar.
AYES: Douglass, Harvey, Hesch, Parnham, Stockwin
ABSENT: None

5 COUNCIL, STAFF, AND OTHER REPORTS

5A. Committee Reports and Colfax Informational Items – All Councilmembers

Councilmember Hesch

- Met with the Placer County Air Pollution Control Board Director. A Biomass Generating Plant is investigating locating in Placer County. Councilmember Hesch suggested that Colfax would be a good fit for this type of industry as it would employ residents and reduce fuel levels while providing energy to the area.
- Attended a two-day workshop hosted by the League of California Cities for Mayors and Council members to fine tune how to conduct City business.

Councilmember Stockwin

- Attended the Volunteer/First Responder Appreciation event. It was a well-attended and enjoyable evening. He hopes that it will become a regular event.
- Represented the City on the Placer County Vector Control Board. Vector Control is alerting the public to be cautious when hiking below the 2,500' elevation. Tick populations are up.
- The Vector Control Board voted to continue funding a program for elementary students called "What Bugs You". It is a video assembly which teaches children from 2nd-5th grade about pests which carry diseases. Schools must apply for the program. It would be great if the Colfax Elementary School would apply for the program.

Councilmember Douglass

- Attended the SEDCorp meeting. They have obtained a large grant for broadband service throughout the County.
- Attended Project Go and was elected for another term.
- Enjoyed the Volunteer/First Responder Appreciation event and attended an art class hosted by the Sierra Vista Center Art Group the same evening.
- Attended Chamber Luncheon. All of the Service Clubs in the area are planning to meet together on alternating months. They are scheduled to meet on February 16th at 5:00 at the Chamber Office.

Mayor Pro Tem Harvey

- Asked that staff look at the possibility of reinstituting the CDBG program and bring back a proposal to a future Council meeting. CDBG can be a great source of funding.

Mayor Parnham

- Nothing to report

5B. City Operations – City Staff

City Manager Miller

- Beach Hut Deli soft opening is this week. The Mayor has suggested that a live feed from the proposed skate park could be shown on one of the TV screens in the restaurant. The owner would be happy to have a link for the public to watch local athletes in action!
- The Dollar General grand opening was last Saturday. The manager of the store is pleased with the welcome from Colfax and the sales thus far. All of the employees are Colfax locals.

- The Wastewater Treatment Plant is running well.
- Staff was able to repair a sink hole which developed on North Main Street last week. It was a nice in-house solution to an urgent problem.
- Staff has also been busy clearing rock slides that have occurred during recent rains and clearing transient camps at the landfill.
- A new sign across from Dollar General to direct traffic away from the most crowded intersection and down to the Canyon Way interchange will be installed soon.

5C. **Additional Reports – Agency Partners**

Sergeant Ty Conners, Placer County Sheriff Colfax Substation Commander

- The Department had two high profile cases in which Colfax officers assisted, the officer involved shooting in Loomis and the Search and Rescue near the summit.
- The young men who volunteer through the AIM (Achieve Independent Milestones) Program were thrilled with the article in the paper with images of them cleaning City Hall.
- The Sheriff's volunteers will begin canvassing residents near the Ball Park about the location of the skate park soon.
- Sergeant Conners commented that officers and City staff are working with Union Pacific Railroad to curtail trespassing issues at the Fruit Sheds.
- The OUR Colfax Facebook page has almost 500 subscribers!

Forrest Rowell, CAL FIRE Colfax Station

- The Colfax City Volunteer Fire Department (CVFD) is currently rebuilding its membership. Staff is currently processing 2 new volunteers.
- The volunteers will be able to attend a fire break training in March.
- The snowpack is currently at 115% with 18 inches of snow. We will need 28 inches of snowpack by April 1st to recharge the water levels.
- He reported that CVFD helped with 2 local structure fires recently – one in Dutch Flat and the other in Colfax.
- At the request of City staff, he has contacted the Unit Forester, Steve Garcia. Mr. Garcia will be at the next Council meeting to answer Council questions regarding the bark beetle kill and efforts to control the effects of the pest infestation.

Council expressed their concern for the bark beetle kill issue and requested that Mr. Garcia have information regarding grants within City limits, especially assistance for individual homeowners.

Frank Klein, Colfax Chamber of Commerce President

- Thanked staff and Council for the Volunteer/First Responder Appreciation event. He stated that it created a good energy and was a very welcome gesture.

Mayor Parnham added that this type of thank you is important and it allows the volunteers who are usually working during City events to enjoy themselves.

- Mr. Klein announced that the Richard and Helen Weyland were awarded the Scoop Thurman Community Service Award on Wednesday for their impact on the community. The award was presented by the Colfax Record at the luncheon.
- Mr. Klein distributed a copy of the Annual Chamber Meeting agenda to Council. New board members were installed: Paul Rogers, Tim Ryan, Gary Howard and Frank Klein.

6 PUBLIC COMMENT

Sherry Conners, local resident

- Stated that she was treated to a free dinner at Beach Hut Deli and decided to pay it back by purchasing a gift certificate for the restaurant owner, Ky Kleiber, to give away in a drawing. She was able to persuade him to donate to the Skate Park. She challenged Council and Chamber members to likewise approach a business and request a donation to the Skate Park.

7 COUNCIL BUSINESS

7A. Cost Share Agreement with Canyon Creek HOA for Slurry Seal of Pavement

STAFF PRESENTATION: Wes Heathcock, Community Services Director

RECOMMENDATION: Adopt Resolution 06-2016 Authorizing the City Manager to enter into a Cost Share Agreement for Applying a Slurry Seal to the Pavement in the Canyon Creek Subdivision.

Community Services Director Heathcock stated the 20-year-old roads in the Canyon Creek subdivision still have a good base but need maintenance work. The HOA for Canyon Creek have agreed to share the cost of a slurry seal, preventing deterioration of the pavement. The timing is excellent to avoid replacing the pavement in a few years. With the cost share agreement, staff recommends proceeding with the project.

Councilmember Hesch stated that he supports improving the infrastructure in Colfax. In fact this has been one of his primary goals while on Council. However, he is frustrated that there is still no priority list or comprehensive pavement management plan. How did this HOA jump in front of other neighborhoods that also need pavement maintenance or repair?

Community Services Director Heathcock replied this is an excellent point. Canyon Creek has a unique situation in Colfax. The roads are still in good condition and if the slurry seal is applied, the condition will be preserved for about 10 years.

City Manager Miller added that the cost share makes this timely project feasible and will prevent costly repairs later at twice the cost. He also mentioned that PTCPA has proposed a county sales tax increase which will supplement the City pavement fund by about $250,000 annually.

Councilmember Stockwin concurs with Councilmember Hesch that the City needs a priority list to avoid randomly repairing streets.

Councilmember Douglass stated that Canyon Creek is a showcase neighborhood in Colfax and it is valuable to keep it nice at a fraction of the cost of repairing the roads later.

Mayor Pro Tem Harvey mentioned that his neighborhood had made a similar offer to the City about 10 years ago. The City did not accept the offer and his street is now basically gravel.

Mayor Parnham agreed that the City needs both a comprehensive pavement management fund and more funding for roadwork.

There were no comments from the public.

On a motion from Councilmember Douglass, and a second from Councilmember Stockwin, Council adopted Resolution 06-2016.

AYES: Douglass, Harvey, Hesch, Parnham, Stockwin
ABSENT: None

7B. **Winner Chevrolet Agreement Update**
STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Information Only.
City Manager Miller stated that this is a very important agreement. In the past four years, it has added over $800,000 in sales tax revenue and has allowed Winner Chevrolet to stay in town. Staff is working with the owner to complete the extension of the agreement. There is one more paragraph that needs to be agreed upon. Staff will bring the agreement to Council at the next meeting for approval.

7C. **Council Appointments**
STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Select Councilmembers to serve as Liaison to League of California Cities, Member of the Board of Directors for the Sacramento Area Council of Governments (SACOG), and Council Liaison to staff regarding recreational uses for the closed landfill.
Mayor Parnham agreed to serve as League Liaison with Mayor Pro Tem Harvey as alternate.
Councilmember Douglass will sit on the SACOG board with Councilmember Stockwin as alternate.
Councilmember Douglass will represent Council on discussions regarding recreational uses for the landfill.

8 *Please note: Item 8 was not on the agenda due to a clerical oversight.*

9 **<u>INTERIM URGENCY ORDINANCE</u>**

9A. **Introduction and First Reading of Ordinance № 528: An Urgency Ordinance of the City of Colfax Amending Colfax Municipal Code Title 17, Chapter 17.162 Prohibiting the Cultivation and Delivery of marijuana and the Operation of Medical Marijuana Dispensaries in the City of Colfax, an interim urgency ordinance to be effective until the November 8, 2016 Election at which time a Measure will be placed on the Ballot to determine the will of the people.**
STAFF PRESENTATION: Mark Miller, City Manager and Mick Cabral, City Attorney
RECOMMENDED ACTION: Introduce Ordinance № 528 for first reading by title only and schedule for second reading public hearing and adoption at the February 10, 2016 regularly scheduled City Council meeting.
City Manager Miller stated this urgency ordinance will be in place during the interim while staff develops a measure for the November ballot.
City Attorney Cabral explained the governor signed a law on October 11, 2015 that gives local jurisdictions until March 1st to regulate cultivation and delivery of marijuana or lose the ability to regulate those activities. Staff is recommending maintaining the status quo banning dispensaries of medical marijuana and amending the current ordinance to also include banning delivery and cultivation. Council can read the ordinance by title only and bring back for a hearing and approval at the next meeting.
City Manager Miller stated that keeping medical marijuana jurisdiction under City control is important in terms of future revenue. Staff will have a draft for Council to discuss in a few weeks.

Councilmember Stockwin pointed out a few typos in the staff report and the proposed ordinance, which staff will correct. He stated that delivery is not defined and that it is difficult to ban something that isn't defined.
City Attorney Cabral agreed that the State has put the cities in an awkward position in which definitions and intent will only be determined with time and lawsuits. Because this is a fluid situation, staff determined it is most cost effective to allow the League and other Cities to write their ordinances and then use those ordinances as templates to customize for the needs of Colfax.
Council voiced several concerns: some of the wording in the ordinance is too strong, the ordinance doesn't address manufacture or multiple dispensaries, the point on page three of the ordinance regarding businesses licenses in effect in 2009 is ambiguous, and a total ban seems unnecessary. City Manager Miller stated there should be no change in the way regulation of medical marijuana is enforced during this interim period. Sergeant Conners concurred. Staff chose to use the current ordinance with only a few changes to save the time to completely rewrite an urgency ordinance. When the measure is written for the ballot it will be clear, simple and streamlined and address both regulation and revenue. Because of the time constraints, the City has only two choices at this point, a complete ban, or allowing the State control of medical marijuana. City Attorney Cabral stated the Council will have time go back and change the ordinance before the election, if it chooses. The purpose of this ordinance is to get something on the books by the deadline. Mayor Parnham summed up the discussion: it will be best to keep the State from regulating medical marijuana and leave the issue to the Citizens to vote.

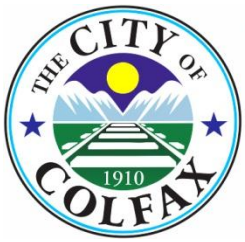
On a motion from Councilmember Hesch, and a second from Councilmember Harvey, Council introduced Ordinance № 528 for first reading by title only and scheduled a public hearing for second reading and adoption at the February 10, 2016 regularly scheduled City Council meeting
AYES: Douglass, Harvey, Hesch, Parnham, Stockwin
ABSENT: None

10 ADJOURNMENT

Mayor Parnham adjourned the meeting at 9:02PM.

Respectfully submitted to City Council this 10th day of February, 2016

Lorraine Cassidy, City Clerk



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE FEBRUARY 10, 2016 COUNCIL MEETING

FROM: Mark Miller, City Manager

PREPARED BY: Mick Cabral, City Attorney and Staff

DATE: February 4, 2016

SUBJECT: Second Reading of Ordinance № 528: An Urgency Ordinance of the City of Colfax Amending Colfax Municipal Code Title 17, Chapter 17.162 Prohibiting the Cultivation and Delivery of Marijuana and the Operation of Medical Marijuana Dispensaries in the City of Colfax, an interim urgency ordinance to be effective until the November 8, 2016 election at which time a measure will be placed on the ballot to determine the will of the people.

	N/A	X	FUNDED		UN-FUNDED	AMOUNT:	FROM FUND:

RECOMMENDED ACTION: Conduct A Public Hearing, Discuss, Waive The Second Reading, And Adopt Ordinance № 528, An Urgency Ordinance of the City of Colfax Amending Colfax Municipal Code Title 17, Chapter 17.162 Prohibiting the Cultivation and Delivery of Marijuana and the Operation of Medical Marijuana Dispensaries in the City of Colfax, an interim urgency ordinance to be effective until the November 8, 2016 election at which time a measure will be placed on the ballot to determine the will of the people.

BACKGROUND AND SUMMARY:

On October 9, 2015, Governor Brown signed the "Medical Marijuana Regulation & Safety Act" (AB 243, AB 266, and SB 643) ("MMRSA") into law. The MMRSA became effective January 1, 2016. It creates a state licensing and regulatory framework for medical marijuana cultivation and manufacturing of medical cannabis products, and for commercial medical cannabis activities including operation of dispensaries, distributions, and transporting. The MMRSA also regulates labeling of edible medical marijuana products, environmental problems caused by cultivation, and physicians who give excessive marijuana recommendations or recommendations without prior examination.

The MMRSA permits cities and counties to regulate or prohibit medical marijuana cultivation or manufacturing, or commercial activities such as operation of dispensaries and other distribution facilities and activities under local ordinances or to continue regulating these activities in ways consistent with the new state law as long as cities and counties require state minimum regulations to be met. Cities still have the power to ban or regulate these activities consistent with their communities' unique needs.

A provision of the MMRSA granted the state sole authority to license unless cities ordinances regulating marijuana cultivation in place by March 1, 2016. This provision in the State law simply did not allow cities, especially small cities like Colfax, enough time to rationally discuss whether and, if so, how it wants to regulate marijuana cultivation, distribution, delivery and the like.

AB 21 was introduced to remove the provision that granted the State sole licensing authority. AB 21 was passed by the California Legislature and signed by the Governor February 3, 2016. With AB 21 becoming state law, the March 1, 2016 deadline for cities to pass ordinances regulating marijuana cultivation has been removed. This may mitigate the urgency but not the need to regulate marijuana cultivation, delivery and dispensaries in the City.

Staff is recommending that the Council adopt this ordinance to maintain the status quo.

Consistent with Council direction, staff will move quickly to prepare a comprehensive regulatory ordinance and fee schedule for the Council to consider. The intent is to have an ordinance that can be placed on the ballot for approval or disapproval by the City's residents at the November election.

At the January 27, 2016 meeting, Council raised three issues that staff has since addressed. Council found the recital on the top of page 2 of the draft ordinance on page 7 of 11 of the agenda materials to be unwarranted and objectionable; that recital has been deleted. Council identified a typographical error on page 4 of the draft ordinance, located at the bottom of page 9 of 11 of the agenda materials, in that it referred to Nevada County instead of Placer County. That error has been corrected.

Council was concerned that the draft ordinance did not define "delivery". The City Attorney reviewed all of the applicable legislation and identified a definition of "delivery" that he believes is acceptable. That definition, which recites the applicable statutes with modifications so they make sense in the context of the needs of Colfax, has been added as definition C. The definition narrows the definition of "delivery" so it applies only to commercial transfer of marijuana and cannabis-related products but not personal transfer.

Staff will be available to answer any questions the Council or public may have.

Attachments:

a. Public Notice of Hearing to be held February 10, 2016
b. Cover to Ordinance No. 528
c. Redlined Draft Ordinance No. 528
d. Revised Ordinance No. 528

CITY OF COLFAX

ORDINANCE № 528

AN URGENCY ORDINANCE OF THE CITY OF COLFAX AMENDING COLFAX MUNICIPAL CODE TITLE 17, CHAPTER 17.162 PROHIBITING THE CULTIVATION AND DELIVERY OF MARIJUANA AND THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COLFAX

The City Council of the City of Colfax does ordain as follows:

Section 1:

Title 17, Chapter 17.162 of the Colfax Municipal Code is hereby amended as set forth in Exhibit A attached hereto and by this reference incorporated herein.

Section 2. Superceding Provisions

The provisions of this ordinance and any resolution adopted pursuant hereto shall supercede any previous ordinance or resolution to the extent the same is in conflict herewith.

Section 3. Severability

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 4. Urgency Ordinance Effective Date

Surrounding cities and counties have adopted restrictions and, in some cases, bans on the cultivation of marijuana in their jurisdictions. If further action is not taken, it is likely that Colfax will encounter increasing numbers of cultivation sites of increasing sizes, in locations which conflict with the provisions of this Ordinance and operate in manners which create public nuisance to the community and its residents. There is an immediate need to provide certainty and guidance to those who might choose to cultivate marijuana in Colfax, and to preserve the public peace, health and safety of Colfax residents by regulating and addressing the public nuisances associated with marijuana cultivation and delivery. In addition, if marijuana cultivation is not immediately further regulated, increased numbers of illegal marijuana cultivation sites will be introduced into the local market. Moreover, if immediate action is not taken, State regulations will take effect and diminish or preclude the City's ability to retain and/or exercise local control of marijuana cultivation. Therefore, this is an urgency ordinance and will take effect immediately upon its passage.

Section 5. California Environmental Quality Act Findings

The City of Colfax finds that, if the provisions of the California Environmental Quality Act, Public Resources Code §21000 et seq (hereinafter "CEQA") apply, the title of this ordinance would constitute a brief description of the "Project" as required by Section 15062(a)(1) of the Guidelines for Implementation of the California Environmental Quality Act published by the State of California Office of Planning and Research (hereinafter the "CEQA Guidelines").

FINDING OF NO PROJECT

The City of Colfax finds that adoption of this ordinance does not constitute a "Project" as that term is defined by or used in CEQA, the CEQA Guidelines or any court of attorney general opinion construing the same. Accordingly, the City of Colfax finds that the provisions of CEQA and the CEQA Guidelines are not applicable to said action.

FINDING OF EXEMPTION

In the event that it is found that the said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, which finding would be contrary to the City's opinion of its action, the City of Colfax hereby finds that said action is exempt from compliance with CEQA and the CEQA Guidelines, for the following reasons: The action falls within the "common sense" CEQA exemption provided in 14 CCR 15061(b)(3) in 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. CEQA Guidelines, Section 15061(b)(3). It can be seen with certainty that adoption of this ordinance and its provisions cannot possibly have a significant effect on the environment.

This ordinance shall, within 15 days after its adoption, be published or posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Council members voting for and against it

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Colfax held on the 27th day of January, 2016, and passed and adopted at a regular meeting of the City Council held on the _____ day of _____ 2016, at a duly held regular meeting of the City of Colfax, by the following vote:

AYES:
NOES:
ABSENT:

_____
Tom Parnham
Mayor

APPROVED AS TO FORM:

_____
Alfred Cabral
City Attorney

ATTEST:

_____
Lorraine Cassidy
City Clerk

ORDINANCE NO.

AN URGENCY ORDINANCE OF THE CITY OF COLFAX AMENDING COLFAX MUNICIPAL CODE TITLE 17, CHAPTER 17.162 PROHIBITING THE CULTIVATION AND DELIVERY OF MARIJUANA AND THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COLFAX

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WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) (the "CSA") which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

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, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, dispensing, and delivery within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical marijuana cultivation, manufacturing, dispensing, and delivery, in which case the new law would not allow or permit these activities within the cities and counties; and

WHEREAS, marijuana remains a schedule I substance pursuant to Cal. Health & Safety Code § 11054 (d)(13); and

WHEREAS, marijuana also remains a schedule I substance pursuant to federal law, 21 U.S.C. § 812, Schedule 1 (c)(10), and federal law does not provide for any medical use defense or exception (Gonzales v. Raich, 545 U.S. 1 (2005); United States v. Oakland Cannabis Buyers' Coop., 532 U.S. 483 (2001)); 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, California law allows cities and counties to ban marijuana cultivation and delivery consistent with current state law; and

WHEREAS, the MMRSA provides that if a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under the principles of permissive zoning, or chooses not to administer a conditional permit program pursuit to the MMRSA, then commencing March 1, 2016, the state will be the sole licensing authority for medical marijuana cultivation applicants (Health & Safety Code section 11372.777(c)(4)); and

WHEREAS, the City intends by the adoption of this ordinance to regulate marijuana cultivation within the City for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation and delivery as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016, added by the MMRSA, and other provisions of California law; 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 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; and

WHEREAS, the City Council has determined that it is not in the public interest of the City to allow cultivation or delivery of marijuana within the City limits and that there is a need to prohibit such activities entirely within the City;

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 17.162. Medical Marijuana Dispensaries

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

17.162.10 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.

17.162.20 Marijuana Cultivation Prohibited. All cultivation of marijuana within the City is prohibited. It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city of Colfax to cause or allow such parcel to be used for the cultivation of marijuana.

17.162.30 Marijuana Delivery Prohibited. All delivery of marijuana within the City is prohibited.

17.109.40 Definitions.

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

A. "Abatement" means the removal of marijuana plants and improvements that support marijuana cultivation'

B. "Cultivation" or "marijuana cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

C. "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the California Bureau of Medical Marijuana Regulation to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the California Medical Marijuana Regulation and Safety Act, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

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~~C~~D. "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~~E. "Marijuana" means the plant Cannabis sativa L. and any of its derivatives.

~~E~~F. "Medical Marijuana" or "Medical Cannabis" shall include, but not be limited to, the leaf of the cannabis plant and all products derived from the cannabis plant including, but not limited to, oils, tinctures, butters, candies, lotions, powders, creams, salves and balms, baked goods and any other food products.

~~F~~G. "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

~~G~~H. "Parcel" means property assigned a separate parcel number by the ~~Nevada~~Placer County assessor.

~~H~~I. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or any combination thereof, in whatever form or character.

~~I~~J. "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.

~~J~~K. "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.

~~K~~L. "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.

17.109.50 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.

17.109.60 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 27th day of January, 2016 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 ___ day of February, 2016 by the following vote:

AYES:
NOES:
ABSENT:

_____
Tom Parnham,
Mayor

APPROVED AS TO FORM:

_____
Alfred A. Cabral
City Attorney

ATTEST:

_____
Lorraine Cassidy,
City Clerk

ORDINANCE № 528

AN URGENCY ORDINANCE OF THE CITY OF COLFAX AMENDING COLFAX MUNICIPAL CODE TITLE 17, CHAPTER 17.162 PROHIBITING THE CULTIVATION AND DELIVERY OF MARIJUANA AND THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES IN THE CITY OF COLFAX

WHEREAS, in 1970, Congress enacted the Controlled Substances Act (21 U.S.C. Section 801 et seq.) (the "CSA") which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

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, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, dispensing, and delivery within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical marijuana cultivation, manufacturing, dispensing, and delivery, in which case the new law would not allow or permit these activities within the cities and counties; and

WHEREAS, marijuana remains a schedule I substance pursuant to Cal. Health & Safety Code § 11054 (d)(13); and

WHEREAS, marijuana also remains a schedule I substance pursuant to federal law, 21 U.S.C. § 812, Schedule 1 (c)(10), and federal law does not provide for any medical use defense or exception (Gonzales v. Raich, 545 U.S. 1 (2005); United States v. Oakland Cannabis Buyers' Coop., 532 U.S. 483 (2001)); and

WHEREAS, California law allows cities and counties to ban marijuana cultivation and delivery consistent with current state law; and

WHEREAS, the MMRSA provides that if a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under the principles of permissive zoning, or chooses not to administer a conditional permit program pursuit to the MMRSA, then commencing March 1, 2016, the state will be the sole licensing authority for medical marijuana cultivation applicants (Health & Safety Code section 11372.777(c)(4)); and

WHEREAS, the City intends by the adoption of this ordinance to regulate marijuana cultivation within the City for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation and delivery as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016, added by the MMRSA, and other provisions of California law; 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 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; and

WHEREAS, the City Council has determined that it is not in the public interest of the City to allow cultivation or delivery of marijuana within the City limits and that there is a need to prohibit such activities entirely within the City;

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 17.162. Medical Marijuana Dispensaries

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

17.162.10 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.

17.162.20 Marijuana Cultivation Prohibited. All cultivation of marijuana within the City is prohibited. It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City of Colfax to cause or allow such parcel to be used for the cultivation of marijuana.

17.162.30 Marijuana Delivery Prohibited. All delivery of marijuana within the City is prohibited.

17.109.40 Definitions.

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

A. “Abatement” means the removal of marijuana plants and improvements that support marijuana cultivation’

B. "Cultivation" or "marijuana cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

C. "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the California Bureau of Medical Marijuana Regulation to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the California Medical Marijuana Regulation and Safety Act that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

D. "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.

E. "Marijuana" means the plant Cannabis sativa L. and any of its derivatives.

F. "Medical Marijuana" or "Medical Cannabis" shall include, but not be limited to, the leaf of the cannabis plant and all products derived from the cannabis plant including, but not limited to, oils, tinctures, butters, candies, lotions, powders, creams, salves and balms, baked goods and any other food products.

G. "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

H. “Parcel” means property assigned a separate parcel number by the Placer County assessor.

I. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or any combination thereof, in whatever form or character.

J. “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.

K. “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.

L. “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.

17.109.50 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.

17.109.60 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 27th day of January, 2016 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 10th day of February, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Tom Parnham,
Mayor

APPROVED AS TO FORM:

_____
Alfred A. Cabral
City Attorney

ATTEST:

_____
Lorraine Cassidy,
City Clerk