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
March 9, 2016
Closed Session 6:30 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) 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
3A. **Minutes City Council Meeting of February 24, 2016**
Recommendation: Approve the Minutes of the Regular Meeting of February 24, 2016.
3B. **Current Contract List**
Recommendation: For information only

4) 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.

4A. **Committee Reports and Colfax Informational Items - All Councilmembers**
4B. **City Operations Update – City staff**
4C. **Additional Reports – Agency partners**

5) 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.

6) COUNCIL BUSINESS

6A. **Update on Revised MOU for Local 39 Union Employees**
STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Review update on negotiations from City Manager

6B. **Medical Marijuana Regulation – Continuing City Council Discussion**
STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Discuss and direct staff as appropriate

7) 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 of Colfax
City Council Minutes
Regular Meeting of Wednesday, February 24, 2016
City Hall Council Chambers
33 S. Main Street, Colfax CA

1 CONVENE OPEN SESSION

1A. Mayor Parnham called the meeting to order at 7:00PM.

1B. **Pledge of Allegiance:** Mayor Pro Tem Harvey led the Pledge of Allegiance.

1C. **Roll Call:** Councilmembers present: Douglass, Harvey, Hesch, Parnham and Stockwin

1D. **Approval of Agenda**

On a motion by Councilmember Stockwin, seconded by Councilmember Douglass, the City Council approved the agenda.

AYES: Douglass, Harvey, Hesch, Parnham, Stockwin

2 PRESENTATIONS

2A. **Acceptance of the Final Version of the Sales Tax Agreement with Winner Chevrolet**

City Manager Miller introduced the finalized version of the agreement with Winner Chevrolet. The agreement has only a few adjustments since the last presentation to Council which were approved by the attorneys to both parties. He introduced Mr. Dave Gard, owner of Winner Chevrolet, and thanked him for his cooperation in negotiating the current agreement and his long-term commitment to the economic vitality of the City.

Mr. Gard thanked Council for the success of the current contract over the last five years. He said it has been a win-win endeavor; both fun and profitable. He is looking forward to continuing the trend towards a strong and healthy Colfax and a strong and healthy Winner Chevrolet.

Council thanked Mr. Gard for his efforts to negotiate the contract and his service in the past to the City as a Councilmember.

There was no public comment.

On a motion by Mayor Pro Tem Harvey, seconded by Councilmember Hesch, the City Council adopted Resolution 07-2016 authorizing execution of a purchase and sale and lease agreement with Winner Chevrolet.

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

2B. **Skatepark Update**

Ty Conners, Placer County Sheriff's Office Colfax Substation Commander, reported results of the public outreach regarding the proposed location of the skate park. Although the City is not required to contact neighbors about recreational uses within a park, at the request of Council, the Sheriff's team visited every house within a 400 foot radius of the proposed skate park. The majority of the residents were supportive of locating a skatepark next to the Splash Park. Some suggested routing traffic up Rising Sun Street to park at the Ball Field parking area. Sergeant Conners suggested hours of operation only during daylight hours with a timed gate. The officers will make extra patrols to the area and the key to safety will be a camera system with live feed. Sergeant Conners handed

each Councilmember a sticker with the new skatepark logo. When the logo was posted on the OUR Colfax Facebook page, there were 2382 views and positive responses. Sierra Vista Community Center has agreed to support the skatepark fundraising efforts as the umbrella 501(c)(3) organization. Council and staff discussed several options to ensure the park will be safe for the youth who use the park and have minimal negative impact on the neighbors. In general, skateparks are self-policing; skateboarders have an unwritten code of conduct. As an extra deterrent to miss-use, the skatepark can be closed for a certain number of days if rules are broken.

Larry Hillberg, 255 Jay Street, spoke against locating the skate park next to the Splash Park, stating he feels approval is premature without appropriate due diligence. His chief concern is the noise that will be created by the skateboards on the park apparatus. He feels that the skate park is proposed with no organization, no funding, and no real plans.

In response to Councilmember Hesch's question, City Attorney Cabral assured Council that changing the apparatus in the park is not a change in use and therefore does not require CEQA or other planning notices.

3 CONSENT CALENDAR

3A. **Minutes City Council Meeting of February 10, 2016**
Recommendation: Approve the Minutes of the Regular Meeting of February 10, 2016.

3B. **Cash Summary Report – January 2016**
Recommendation: Receive and File

On a motion by Councilmember Hesch, seconded by Mayor Pro Tem Harvey, the City Council approved the Consent Calendar.

AYES: Douglass, Harvey, Hesch, Parnham, Stockwin

4 COUNCIL, STAFF, AND OTHER REPORTS

4A. **Committee Reports and Colfax Informational Items – All Councilmembers**

Councilmember Hesch

- Councilmember Hesch attended the Placer County Transportation Planning Agency Board meeting. The main topic of discussion is the proposed sales tax referendum which will be used exclusively for Placer County roads. Colfax is slated to receive $250,000 annually for road repairs. This will dramatically increase our current $45,000 annual budget. The Board will determine if the referendum will be placed on the ballot at the April meeting.

Councilmember Stockwin

- Councilmember Stockwin commented the Nevada Irrigation District (NID) is beginning the Environmental Impact Review process for the proposed dam on the Bear River. He would like the City to have a voice in this decision. NID is willing to make a presentation to Council. He requested staff write a comment letter and arrange for a presentation.
- He is monitoring the Placer County Supervisor's discussion of medical marijuana regulations. The number one complaint is odor from growing the plants. The Supervisors will have their draft in May. There is little chance that County permits will be issued in time for the 2016 grow season.

- He attended the Placer County Mosquito and Vector Control Board meeting. Be sure to dump out standing water to avoid the early hatch of mosquitos. There is no issue of Zika virus in Placer County.
- He interacted with various Union Pacific officials to protest allowing trains to idle at the border of town for extended periods of time.
- Reported that the Fruit Growers Shed doors have been broken down again. City Manager Miller responded that Union Pacific has taken responsibility for the fruit shed and will have a contractor board up the building on March 10th.

Councilmember Douglass

- Councilmember Douglass mentioned that the idling trains have been a problem for many residents.
- Attended the Sierra Vista Community Center Board Meeting.
- Organized a meeting with the service organizations in town to create a common database and encourage partnering.

Mayor Pro Tem Harvey

- Mayor Pro Tem Harvey mentioned the Air Quality Control Board has jurisdiction over the railways and can help to regulate issues with idling trains.

Mayor Parnham

- Mayor Parnham had no report

4B. **City Operations – City Staff**

City Manager Miller

- City Manager Miller reported Union Pacific Railroad has hired a contractor for boarding up the California Fruit Growers Association building to deter transient use of the building. The building should be secured by March 10th.
- The Placer County Economic Development Board has a new director who is proactive and reaching out to small cities. He would like to schedule a presentation before Council and Chamber of Commerce members at a future meeting.
- The Wastewater Treatment Plant is running well with no issues. The new Chief Plan Operator is doing a great job.
- Staff has noticed a surge in real estate interest including a potential buyer for the garage on Fire House Alley. The new owner plans to convert the garage into storage for his car collection.

4C. **Additonal Reports – Agency Partners**

Ty Conners, Placer County Sheriff Office Colfax Substation Commander

- Mentioned that he is appreciative of the good partnership with the Union Pacific law enforcement officer.
- In response to reports from Councilmembers regarding incidents in town, Sergeant Conners reminded the public of the importance of "If you see something say something." The Sheriff's dispatch number to call is (530) 886-5375.

Frank Klein, President of the Colfax Area Chamber of Commerce

- Thanked staff for installing the light near the depot that has deterred vagrants from sleeping at the bus stop behind the Chamber office.
- The Chamber is developing a business plan to bring more businesses into town.

- Chamber Board members will be conducting an outreach to all the businesses soon.

5 PUBLIC COMMENT

Michelle Bustamante, Meals on Wheels by ACC

- Handed out a flyer from Meals on Wheels to encourage more participation in Colfax. Meals on Wheels helps older adults live independently and in their own homes. Only 14 participants are enrolled from Colfax. The organization would like to help more seniors in town.

  Council suggested staff place flyers at the front counter and post on the website.

Foxey McCleary, 127 Saunders Lane

- Reminded Council of the upcoming Chocolate, Wine, and Art Indulgence event which will be held on April 30th from 6:00PM-9:00PM for $15.00. The event will support both the Community Center and the Veterans Hall. Fourteen artists are scheduled to display their artwork.

6 COUNCIL BUSINESS

6A. Unfunded Pension Liability

STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Discuss and direct staff as appropriate.

City Manager Miller explained this item is presented at the request of Council. Finance Director Laurie Van Groningen is closely monitoring the unfunded liability balance for CalPERS. She recommends waiting to decide when and how quickly to pay the liability because the obligation may actually decrease during the next reporting period. Colfax currently has 90% of the obligation funded, which is far higher than most agencies.

Council would like to see a reserve account set aside for CalPERS unfunded liability.

6B. Mid-Year Budget Update

STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Review and accept Mid-Year Budget Report and Budget Calendar.

City Manager Miller noted Council has two items to review and accept. Staff is not recommending changes to the current budget. Differences between projected actual and budgeted numbers are immaterial.

Council requested staff create a reserve account of $40,000 for CalPERS unfunded liability.

6C. Preliminary Medical Marijuana Policy Discussion

STAFF PRESENTATION: Mark Miller, City Manager
RECOMMENDATION: Discuss and direct staff as appropriate.

City Manager Miller stated staff has created a matrix to facilitate the discussion of components which should be included in the ballot measure to regulate or ban medical marijuana dispensaries, cultivation, and deliveries. There are six areas to discuss:

1. Public Health and Safety
2. Revenue Assurance
3. Land Use
4. Marijuana Dispensaries
5. Marijuana Delivery
6. Marijuana Cultivation

Each Councilmember addressed all of the categories and gave staff suggestions for content to be included for the next discussion.
Tim Robinson, Jim Dion, and Stacie Younggren added comments.
Council requested staff put together a handout which describes the State medical marijuana bills.

7 ADJOURNMENT

As there was no further business on the agenda, Mayor Parnham adjourned the meeting at 9:59PM.

Respectfully submitted to City Council this 9th day of March, 2016

Lorraine Cassidy, City Clerk

Contract Files						
Company	Service	Date Signed/ Renewed	Expiration/ Completion	Agreement Type	Resolution	Retain
4LEAF, Inc	Const Mgmt for Grass Valley St Project	3/11/2015	3/11/2018	Contract	04-2015	
All Phase Land Clearing	Clearing Landfill	1/13/2016		Contract	02-2016	
Alliant Insurance	Employee Crime Insurance	7/1/2014	7/1/2017	Insurance	30-2014	
Alliant Insurance	Property Binder	7/1/2015	7/1/2016	Contract		
Americgas	Propane	12/5/2013	Open	Service		
AmeriPride	Uniform Rental	?	Open	Service		
Andregg Geomatics	Map Checking Services	11/13/2013	11/13/2015	Contract	50-2013	11/1/2021
Aqua Sierra Controls	SCADA	5/25/2012	9/13/2013	Contract	38-2013	Permanent
Bennett Engineering	Consulting for ATP Grant Application	5/22/2014		Contract		
Blue Ribbon Personnel	Temporary Admin Services	2/6/2015		Service		
Bureau Veritas	On call Inspection Services	7/15/2015	Open	Consultant	30-2015	
Cabral, Mick	City Attorney	8/17/2009	Open	Consultant		
CalPERS	Actuarial Valuation	7/28/2006	Open	Contract		Permanent
Caltrans	Grass Valley St UPPR Ped	5/1/2015		Cooperative Agreement		
Caltrans	No Main Bike Rt	4/14/2015		Cooperative Agreement		
Caltrans	Master Agreement for Federal Aid	3/8/2004		Master Agreement	09-2004	Permanent
Canyon Creek HOA	Cost Share Agreement	2/4/2016		Contract	06-2016	
ClearPath	Map Checking Services	11/13/2013	10/14/2017	Contract		
Coastland Civil Engineering	On-Call Building Dept Services	8/12/2015	Open	Contract	29-2015	
Construction Testing Services (CTS)	On-Call Materials Testing	12/10/2014	12/10/2017	Contract	35-2014	
Crispin Cider	Industrial Use Permit	10/1/2013	12/31/2016	Industrial Permit		
Dept. of General Services (State of CA) - DGS	Surplus/Discount Equipment	5/14/2015	5/4/2018	Contract	07-2010	
Diamond Water Laboratory	Treated Water Analysis	11/9/2011		Contract	52-2011	
Dwayne Armstrong Communications	Internet Service at Events	3/18/2013		Potential Contract		
Edwards	Mutual License - Entry	9/17/1998	Ongoing	Contract		
Fishers Wastewater Services	Chief WWTP Operator	10/2/2014		Contract	26-2014	

Company	Service	Date Signed/ Renewed	Expiration/ Completion	Agreement Type	Resolution	Retain
Fund Balance - Tyler Techonologies	Fund Balance Maint. Agreement	9/10/2010	Ongoing	Contract		
GovTeller	Online Payment Service	4/4/2013	Ongoing	Contract	N/A	
Hach Company	Flow Monitoring Data	10/26/2011		Contract		
Hinderliter, De Llamas and Assoc	Sales Tax Agreement First Amendment	7/9/2014	Ongoing	Contract		
Hodrege and Kull	On-Call Materials Testing	12/10/2014	12/10/2017	Contract	35-2014	
Inland Business Systems	Copier	11/4/2012	Ongoing	Service		
Larry Walker Associates	WWTP Engineering	3/15/2010				
Lawrence and Assoc	Landfill Groundwater Monitoring	8/14/2013	Ongoing	Service	33-2013	
Liebert, Cassidy, Whitmore	Legal Services for Union Negotiations	12/21/2015	Ongoing	Consultant		
Mark Thomas Inc	Roundabout Feasibility Study	12/9/2015		Contract	44-2015	
Marsons/Miles	Lease Agreement for Main St Lot - Art Plaza	4/1/1998	Ongoing	Lease		
Matriscope	On-Call Materials Testing	12/10/2014	12/10/2017	Contract	35-2014	
Miller, Mark	City Manager	12/9/2013	Ongoing	Contract	44-2013	
Mobile311	GIS Work Order	9/23/2015		Contract	39-2015	
MSA Engineering	WWTP Survey Markers	3/28/2014	5/28/2014	Contract	N/A	5/1/2020
Nationwide Retirement	Deferred Compensation	1/23/2014	Ongoing	Contract		
Nexgen	Wastewater Mgmt and Monitoring	9/12/2012		Contract		
Paragon Geotechnical	Instrument Survey WWTP Amendent	3/20/2014		Contract		
PayGov	Credit Card Services	8/28/2015	Ongoing	Contract		
PCTPA	Funding Agreement Security Lighting	5/27/2015	3/21/2018			
Pitney Bowes	Postage Equipment	1/26/2010	3/30/2015	Lease		
Placer County Water Agency (PCWA)	MOU Fire Hydrants	3/26/1997	Open	MOU		
Placer Co Health and Human Services	Animal Control	7/1/2015	6/30/2016	Contract	37-2015	
Placer Co Public Works	Transit Service #12368	3/13/2014	7/1/2016	Contract		
Placer County Air Pollution Controll District	Development Environmental Review	1/4/2000	1/4/2020	MOU		
Placer County Dept of Human Services	WEX - Work Experience Program	8/6/2015	Pending Placement	Contract		
Placer County Executive Office	Capital Facilities Mitigation Impact Fees	10/1/2014		Contract	47-2007	

Company	Service	Date Signed/ Renewed	Expiration/ Completion	Agreement Type	Resolution	Retain
Placer County Probation Office	Work Release Program	11/20/2009	Ongoing	Contract		
Placer County Sheriff	Police Services	7/1/2015	6/30/2018	Contract	16-2015	
Placer County/Cal Fire	Fire Protection and Fire Marshal	7/1/2014	6/30/2015	Contract	20-2014	end + 5
Placer Hills Fire Protection District	Agreement for Automatice Aid	5/31/2002		Cooperative Agreement		
Placer mPower	Coop Agreement for Renewable Resource	11/11/2009		Cooperative Agreement	44-2009	
Placer Sierra Fire Safe Council	Partnership Agreement	8/22/2006		Cooperative Agreement	18-2006	
Ponticello	City Engineering Services	6/1/2009		Contract		
Recology	Solid Waste Hauling	6/27/2011	6/30/2021	Contract		
RGS	Planner - Amy Feagans	6/24/2015	Open	Contract	27-2015	
Richardson and Co	Audit Services	6/18/2014	6/30/2015	Contract	14-2014	end + 5
SCORE	Workman's Comp and Liability Insurance	7/19/2011	Open	Contract		
Sierra Property Development	Digital Billboard Agreement	8/14/2013	8/14/2038	Contract		
Sierra Property Development	Billboard Settlement Agreement	11/14/2012	11/14/2037	Contract	45-2012	
Sierra Valley Energy Authority	JPA	9/9/2015	Ongoing	JPA	35-2015	Permanent
Stantec	On Call WWTP	6/9/2014	On-call	Contract		
State Water Resources Board	WWTP Loan Amendment 1	10/14/2009	10/10/2038	Contract		
Stationary Engineers	Local Union 39	10/10/2013	Renewing	MOU		
Tips/Taps	Purchasing System	11/27/2012	Ongoing	Contract		
Union Pacific Railroad	Grass Valley St UPPR Ped	1/17/2014	10/15/2015	Contract		
UPRR	MOU for Depot Building	6/1/2007		MOU		
US Bank	Master Services Agreement	1/23/2014	Ongoing	Master Agreement		
Vali Cooper and Assoc	Const Mgmt for Grass Valley St Project	3/11/2015	3/11/2018	Contract	04-2015	
VanGroningen, Laurie	Finance Director	11/16/2010	Ongoing	Consultant	55-2010	
VSS	Grass Valley Road Rehab Construction	6/26/2014	7/10/2014	Contract	19-2014	Permanent
Wallace Kuhl	On-Call Materials Testing	12/10/2014	12/10/2017	Contract	35-2014	
Wave Communications	Franchise Agreement	7/18/2011	Ongoing	Contract	43-2006	
Winner Chevrolet			Renewing			
WPCTSA (PCTPA)	JPA	11/5/2008	Ongoing	JPA		Permanent

STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE MARCH 9, 2016 COUNCIL MEETING

FROM: Mark Miller, City Manager
PREPARED BY: Staff
DATE: March 2, 2016
SUBJECT: Medical Marijuana Regulation - Continuing City Council Discussion

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

RECOMMENDED ACTION: Review the attached preliminary Cultivation Section of a potential Medical Marijuana Ordinance, discuss and direct staff as appropriate.

SUMMARY:

At Council's direction, staff is preparing a comprehensive regulatory ordinance and fee schedule for the Council to consider. The intent is to have a Medical Marijuana measure that can be placed on the ballot for approval or disapproval by the City's residents at the November election. At tonight's Council meeting, staff is requesting direction from Council on a draft **Cultivation Section** of a potential Medical Marijuana Ordinance, only. At the following meeting, staff will bring back sections on use and delivery of marijuana and the operation of medical marijuana dispensaries, to be considered by Council. Revenue measures and ballot wording will also be brought for Council review.

BACKGROUND

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. Of great importance to local jurisdictions is to protect public health and safety, and to have a revenue mechanism in

place as the State's regulations will not provide any funding from the State to local jurisdictions to offset the impacts of legislation.

At the February 24 meeting, City Council considered, and the public commented on, major areas of policy including **Public Health and Safety, Revenue Assurance, Land Use, Marijuana Dispensaries, Marijuana Delivery** and **Marijuana Cultivation**. Again, this draft Ordinance is intended for Medical Marijuana only, for documented patients and/or their caregiver.

City Council developed consensus on a number of areas, which staff attempted to include in the draft ordinance section (cultivation only) attached. Additional specific areas in the ordinance that Council may wish to discuss are:

- Including Indoor and/or Outdoor Cultivation permitting.
- A 300 foot separation from any hospital, library, school, church, park or playground or in other areas where large numbers of minors regularly travel or congregate (reduced from 1,000 to 2,500 feet per Council's previous comments).
- Restriction on multi-family residential Outdoor Cultivation.
- Outdoor and Indoor cultivation limited to fifty square feet or 4 plants per parcel or residence, whichever is less.
- Potential permitting fees, that will be included in the City's Fee Schedule, such frees for application, per plant, permit renewal, etc.

RECOMMENDATION:

Review the various policy areas included in the attached preliminary **Cultivation Section** of a potential Medical Marijuana Ordinance, discuss and direct staff as appropriate.

Attachment: Cultivation Section of a potential Medical Marijuana Ordinance

CITY OF COLFAX

Preliminary 3/9/2016 Draft ORDINANCE No. 528

AN ORDINANCE OF THE CITY OF COLFAX AMENDING COLFAX MUNICIPAL CODE TITLE 17.162 COVERING CULTIVATION, (USE, AND DELIVERY OF MARIJUANA AND THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES to be considered next)IN THE CITY OF COLFAX

- ***Chapter 17.162 – Initial Section for review: MEDICAL MARIJUANA CULTIVATION***

  - **17.162.010 - Legislative Findings.**

The City Council finds as follows:

1. In 1996, the voters of the State of California approved Proposition 215 which was codified as California Health and Safety Code Section 11362.5, and entitled "The Compassionate Use Act of 1996" ("the Compassionate Use Act" or "CUA").
2. The intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes.
3. On January 1, 2004, Senate Bill 420, codified as California Health and Safety Code Sections 11362.7 et seq. and entitled "The Medical Marijuana Program," ("MMP") became effective to clarify the scope of the Compassionate Use Act.
4. California Health and Safety Code Section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420.
5. The City of Colfax has adopted a zoning plan identified as Title 17 (Zoning) of the City of Colfax Municipal Code.
6. Prior to the enactment of this section, there is a regulation prohibiting dispensaries of medical marijuana in the zoning plan.

7. The City of Colfax, with a population of approximately 2,000, is a small town with a high percentage of smaller parcels containing residential units.

9. The creation of persistent strong odors as marijuana plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable marijuana plants and creating an increased risk of crime.

10. The indoor cultivation of substantial amounts of marijuana also frequently requires excessive use of electricity, which often creates a risk of fire from the electrical grow lighting systems used in indoor cultivation.

11. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants can be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including schools, libraries, parks, and other similar locations.

12. The City Council finds and determines that the enactment of this section is exempt from environmental review pursuant to California Environmental Quality Act Guidelines Section 15061(b)(3) in that there is nothing in this section or its implementation that could have a foreseeable significant effect on the environment.

- **17.162.020 - Intent.**

1. The City Council of the City of Colfax, pursuant to Chapter 17.162 of the Colfax Municipal Code, hereby intends to regulate the cultivation of marijuana for medical purposes, including, but not limited to, regulations as to location of the cultivation, size of the area used for cultivation, and the use of fencing or other screening and security structures, to accommodate the needs of qualified patients and their caregivers, and in furtherance of the public necessity, convenience and general welfare. Nothing in this section shall be construed to authorize any use, possession, cultivation, or distribution of marijuana for nonmedical purposes.

2. This section is established to regulate medical marijuana cultivation in a manner that mitigates potential impacts on surrounding properties and persons, and that is in conformance with the provisions of California Health and Safety Code Section 11362.5 through 11362.83.

- **17.162.030 - Applicability.**

The provisions of this section shall apply to all persons and businesses described herein whether the activities described herein were established before or after the effective date of this section. Title 17, Chapter 17.162 of the Municipal Code, Nonconforming Uses, shall not apply to preexisting land or building uses inconsistent with the provisions of this section.

- **17.162.040 - Definitions.**

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

"Marijuana" shall have the same meaning as that set forth in California Health and Safety Code Section 11018.

"Medical marijuana" means medical marijuana that has been recommended by a licensed physician in strict accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program.

"Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7(d), as may be amended.

"Qualified patient" shall have the same definition as California Health and Safety Code Sections 11362.7 (c) and (f), as may be amended.

- **17.162.050 - Regulation of Location.**

1. Medical marijuana cultivation shall be prohibited on any parcel within the incorporated area of the City of Colfax except as an accessory use to a legally established residence within a legal residential or accessory building on a legal parcel with a valid Conditional Use Permit.
2. No medical marijuana cultivation is permitted within three hundred feet of any hospital, library, school, church, park or playground or in other areas where large numbers of minors regularly travel or congregate. The distance between any marijuana cultivation and any hospital, school, church, park or playground or other areas where large numbers of minors regularly travel or congregate shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall of the building in, or plot on which the marijuana cultivation is occurring, to the closest property line where the other building or activity is conducted.

3. Except as provided in subsection 4., medical marijuana cultivation may be undertaken only by a qualified patient who must occupy the residence on the parcel proposed for cultivation as their primary residence.
4. A qualified primary caregiver, as defined, may undertake cultivation of medical marijuana on behalf of his/her qualified patient(s), but only in a legal structure or permitted plot located on a parcel containing the primary caregiver's or qualified patient's primary residence.
5. Indoor cultivation shall only be permitted in a legal, permitted residential or accessory building and said cultivation area shall be limited to fifty square feet or 4 plants per parcel or residence, whichever is less. The cultivated marijuana may be used only by the qualified patient and not distributed, sold, given or transferred in any way to any other person or organization.
6. The use of a building for cultivation of medical marijuana shall not reduce the required parking required per Section 17.108.
7. Outdoor cultivation without a permit shall be unlawful and a public nuisance for any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the City of Colfax.
    a. All Marijuana Cultivated shall be shielded from public view at all stages of growth. All Cultivation areas shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area.
    b. Outdoor cultivation area shall be limited to fifty square feet or 4 plants per parcel or residence, whichever is less.
    c. There shall be no exterior evidence of Cultivation from a public right-of-way Outdoor cultivation is prohibited on parcels with multi-family residential units.
8. Indoor cultivation within a residence without a permit shall be unlawful and a public nuisance with regard to any person owning, leasing, occupying or having charge for possession of any parcel within any zoning district in the City of Colfax.

- **17.162.060 - Development and operational standards.**

1. From a public right-of-way, publicly traveled private road, or adjacent parcel there shall be no visible evidence of medical marijuana cultivation located outdoors or indoors on a parcel.

2. The qualified patient or primary caregiver shall reside in the residence located on the parcel containing the structure or plot where the medical marijuana cultivation occurs.

3. The qualified patient or primary caregiver shall not cultivate medical marijuana in any other location within the incorporated City of Colfax other than on the parcel containing his/her primary residence.
4. The qualifying residence located on the property containing the detached accessory building in which medical marijuana is cultivated shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and shall not be used for medical marijuana cultivation.
5. Medical marijuana cultivation shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
6. Residential and accessory structures used for cultivation shall meet the following criteria:
    - The building shall be provided with locking doors and have a working security system. The alarm shall be a standard audible residential alarm of at least ninety dBA but not exceeding one hundred ten dBA and shall meet the requirements of Chapter 8.28 of the Municipal Code.
    - If the building is a greenhouse then it shall additionally be surrounded by a secure solid six-foot-high fence located within ten feet of the greenhouse and equipped with a lockable gate.
    - Any accessory structure shall be located in the rear yard portion of the lot and maintain a minimum of a ten-foot setback from the side and rear property lines and from any other building on the parcel.
    - Any structure, of any size, utilized for cultivation of marijuana shall be legally constructed with a building permit. All electrical and plumbing shall be installed with a valid electrical and plumbing permit from the City. Such building permits will only be issued to the owner of the property. If the resident is proposing to convert an existing accessory structure for cultivation of marijuana, an inspection and permit will be required to ensure compliance with the ordinance.
    - Medical marijuana cultivation lighting shall not exceed one thousand two hundred watts and shall conform to all applicable codes.
    - All structures utilized for cultivation shall be ventilated with odor control filters, and shall not create an odor, humidity or mold problem on the subject property or adjacent properties.
    - Manufacturing or processing with flammable or noxious liquids or gasses is prohibited on parcels cultivating medical marijuana.

- Other activities may occur within a structure where medical marijuana is cultivated provided that the cultivation area itself within the structure does not exceed fifty square feet and further provided that the cultivation area is segregated from all other building uses by permitted one hour fire walls and all other conditions of this section are satisfied.

7. Wherever medical marijuana is grown, a copy of a current and valid, state-issued medical marijuana card, and a valid City Cultivation Permit must be kept available to immediately present to officers of the City and law enforcement officers upon request.
8. Nothing in this section shall be construed as a limitation on the City's authority to abate any nuisance which may exist from the planting, growing, harvesting, drying, processing or storage of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

- **17.162.070 - Enforcement.**

1. Right of Entry. Persons designated by resolution as code enforcement officers of the City are authorized to enter upon and inspect private properties to ensure compliance with the provisions of Section 17.162 of the Colfax Municipal Code. Reasonable advance notice of any such entry and inspection shall be provided. If an inspection warrant is required from a court of law prior to any such entry and inspection, the City may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person in lawful possession of the property.
2. Public Nuisance. The maintaining, cultivating or growing of marijuana upon private property within the City of Colfax, unless in full compliance with the provisions of Section 17.162 of the Colfax Municipal Code, is declared to be a public nuisance as defined in Section 370 of the California Penal Code.
3. Criminal Offense. Every person who, in violation of the provisions of Section 17.162 of the Colfax Municipal Code, maintains, permits or allows marijuana to be grown upon his or her property or premises, and every person occupying, renting or leasing the property or premises of another who maintains, permits or allows marijuana to be grown thereon in violation of this section is guilty of a misdemeanor punishable as set forth in Section TBD____ of the Colfax Municipal Code. After written notice is provided to any such person of such violation, the continued existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense.
4. Issuance of Citations. All persons designated by resolution as code enforcement officers of the City are authorized to issue citations to persons deemed to be in violation of the provisions of

Section 17.162 of the Colfax Municipal Code. Such citations shall be expeditiously processed through the Placer County Sheriff's office or office of the City attorney for enforcement through an appropriate court of law.

5. Remedies Nonexclusive. The criminal remedies provided herein shall not be the exclusive means of enforcing the provisions of this section nor the exclusive means available to the City to address problems associated with the cultivation of marijuana, whether for medical or other purposes. The City shall continue to have available to it the ability to pursue abatement of nuisances and other problems related to marijuana cultivation under California Penal Code sections 372 and 373a and other applicable provisions of law. The City may also pursue the recovery of its abatement costs in the manner provided in Section 8.16 of the Colfax Municipal Code.

- **17.162.080 - Liability.**

The provisions of this section shall not be construed to protect the property owner(s) of record for each legal parcel associated with the cultivation of medical marijuana, lessees, tenants, and other participants in the cultivation of medical marijuana, and members of collectives and/or cooperatives associated with the cultivation of medical marijuana, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, and does not protect any of the above described persons from arrest or prosecution under those federal laws. The property owner(s) of record for each legal parcel associated with the cultivation of medical marijuana, lessees, tenants, and other participants in the cultivation of medical marijuana, and members of collectives and/or cooperatives associated with the cultivation of medical marijuana, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from the cultivation of marijuana. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the City of Colfax or City of Colfax itself, shall not become a personal liability of such person or the liability of the City of Colfax.

(…USE, AND DELIVERY OF MARIJUANA AND THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES to be considered at next Council Meeting)