

CITY OF COLFAX

ORDINANCE NO. 542

AN ORDINANCE OF THE CITY OF COLFAX AMENDING COLFAX MUNICIPAL CODE CHAPTER 5.32 ESTABLISHING COMMERCIAL CANNABIS REGULATIONS AND COLFAX MUNICIPAL CODE TITLE 17 (ZONING) BY AMENDING USE CLASSIFICATIONS TO ESTABLISH ZONING FOR COMMERCIAL CANNABIS ACTIVITIES WITHIN THE CITY OF COLFAX

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

Section 1:

Colfax Municipal Code Chapter 5.32 and Title 17 are hereby amended in the form and substance contained in the Ordinances attached hereto as Exhibits A and B, respectively, which are incorporated herein by this reference.

Section 2. Superceding Provisions

The provisions of this Ordinance and any resolution adopted pursuant hereto shall supersede and repeal 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 the final judgment of any court of competent jurisdiction, such 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. 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 (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 or 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 exemptions provided by Senate Bill 94, and 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.

Section 5. Effective Date

This Ordinance, and all of its provisions, shall take effect thirty (30) days after its adoption and 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 duly held regular meeting of the City Council of the City of Colfax held on the 24th day of June, 2020, and passed at a duly held regular meeting of the City Council held on the 8th day of July, 2020, by the following vote:

AYES: Mendoza, Lomen, Burruss, Douglass, Fatula

NOES:

ABSENT:



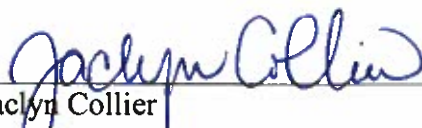
Marnie Mendoza, Mayor

APPROVED AS TO FORM:



Alfred Cabral
City Attorney

ATTEST:



Jaclyn Collier
City Clerk

EXHIBIT A OF ORDINANCE NO. 542

**AN ORDINANCE OF THE CITY OF
COLFAX AMENDING MUNICIPAL
CODE CHAPTER 5.32 COMMERCIAL
CANNABIS ACTIVITY**

Colfax Municipal Code Chapter 5.32 - Commercial Cannabis Activity is hereby repealed and replaced as follows:

Chapter 5.32 COMMERCIAL CANNABIS ACTIVITY.

Section 5.32.010 Purpose and Intent

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes only as recommended by their health care provider(s) while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing testing, retail sale, delivery, distribution and transportation of medicinal cannabis and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Colfax and to enforce rules and regulations consistent with state law. It is the further purpose of intent of this Chapter to require all commercial cannabis operators to obtain and renew annually a permit to operate within Colfax. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

Section 5.32.020. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter “MAUCRSA”), any subsequent state legislation and/or regulations regarding same, the City of Colfax is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Colfax to all commercial cannabis activity.

Section 5.32.030. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Business & Professions Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Colfax.

Section 5.32.040. Compliance with Laws.

It is the responsibility of the owners and operators of any commercial cannabis business to ensure that it is, always, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state law or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, including the Medicinal and Adult-use Cannabis Regulation and Safety Act, and any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit.

Section 5.32.050 Definitions.

Section 5.32.050. When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (a) “A-license” means a valid state license issued under this Chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.

- (b) “A-licensee” means any person holding a license under this Chapter for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician’s recommendations.
- (c) “Applicant” means an owner applying for a commercial cannabis business permit pursuant to this Chapter.
- (d) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
- (1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.
 - (2) “Manufactured cannabis batch” means either of the following:
 - (A) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
 - (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (e) “Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- (f) “Cannabis” means all parts of the *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.
- (g) “Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (h) “Cannabis products” has the same meaning as in Section 11018.1 of the California Health and Safety Code.
- (i) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (j) “City” or “City of Colfax” means the City of Colfax, a California General Law City.
- (k) “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or retail sale of cannabis and

cannabis products as provided for in this Chapter.

(l) “Commercial cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

(m) “Commercial cannabis business permit” means a regulatory permit issued by the City of Colfax pursuant to this Chapter to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity at issue.

(n) “Customer” means a natural person 21 year of age or over or a natural person 18 year of age or older who possesses a physician’s recommendation.

(o) “Delivery” means the commercial transfer of cannabis or cannabis products from a cannabis retailer to a customer. A retailer may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis and cannabis products.

(p) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(q) “Distributor” means a person holding a valid commercial cannabis state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer, licensed distributor, and/or licensed manufacturer.

(r) “Labeling” means any label, or signage, or other written, printed, symbolic, or graphic information upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

(s) “License” means a state license and includes both an A-license and an M-license, as well as a testing laboratory license.

(t) “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(u) “M-license” means a state license issued under this Chapter for commercial cannabis activity involving medicinal cannabis.

(v) “M-licensee” means any person holding a license under this Chapter for commercial cannabis activity involving medicinal cannabis.

(w) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(x) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

(y) “Manufacturer” means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, that packages or repackages cannabis or cannabis products or labels or container.

- (z) “Manufacturing facility” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Colfax and, a valid state license as required for manufacturing of cannabis products.
- (aa) “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use by a medicinal cannabis customer.
- (ab) “Microbusiness” means a licensee that conducts three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale.
- (ac) “Natural person” is an individual living human being.
- (ad) “Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
- (ae) “Operation” means any act for which licensure is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.
- (af) “Owner” means any of the following:
- (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
 - (2) The chief executive officer of a nonprofit or other entity.
 - (3) A member of the board of directors of a nonprofit.
 - (4) An individual who will be participating in the direction, control, or management of the person applying for a license.
- (ag) “Package” means any container or receptacle used for holding cannabis or cannabis products.
- (ah) “Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.
- (ai) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (aj) “Person with an identification card” shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- (ak) “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
- (al) “Retailer” means a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or

cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Colfax authorizing the operation of a retailer, and a valid state license as required by state law to operate a retailer.

(am) “Sell,” “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.

(an) “State License” means a valid permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation or regulations regarding the same to engage in commercial cannabis activity.

(ao) “Testing laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

(2) Licensed by the Bureau of Cannabis Control.

(ap) “Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

(aq) “Volatile Solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

Section 5.32.060. Commercial Cannabis Business Permit Required to Engage in a Commercial Cannabis Business.

No person may engage in any commercial cannabis activity within the City of Colfax including cultivation, manufacture, processing, laboratory testing, distribution, or retail sale of cannabis or cannabis products unless the person (1) has a valid commercial cannabis business permit from the City of Colfax; (2) has a valid Seller’s Permit; and (3) is currently in compliance with all applicable city, state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities, including the duty to obtain any required state licenses.

Section 5.32.070. Cannabis Employee Requirements.

Any person who is an employee within a commercial cannabis business must be at least twenty-one (21) years of age and legally authorized to do so under applicable state law.

Section 5.32.080 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

- (a) The maximum number and types of commercial cannabis businesses that shall be permitted to operate in the City at any one given time shall not exceed the following:
 - (1) Medicinal Retailer (including microbusiness engaged in retail sales): maximum of one (1).
 - (2) Cultivation: Maximum of two (2).
 - (3) Distribution: Maximum of two (2).
 - (4) Non-volatile Manufacturing: Maximum of two (2).
 - (5) Microbusiness: Maximum of two (2).
 - (6) Testing Laboratory: Maximum of two (2).
- (b) This section is only intended to create a maximum number of commercial cannabis businesses that may be issued permits to operate in the City. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the commercial cannabis business permits.
- (c) Each year following the City Council's initial award of permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of commercial cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by resolution that the number of commercial cannabis permits should stay the same, be reduced or be expanded.
- (d) In accordance with State law and Section 5.32.050(ab), a microbusiness means a licensee that conducts three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution and retail sale. Each license issued to a microbusiness licensee from those categories of cannabis activities shall correspondingly reduce the number of licenses remaining available for issuance to other applicants from those categories.

Section 5.32.090 Initial Application Procedure.

- (a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), which resolution shall include or require the City Manager to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria (“Review Criteria”). The resolution shall authorize the City Manager or his/her designee(s) to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the City Council.
- (b) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
- (c) After the initial review, ranking, and scoring under the Review Criteria, the City Manager or his/her designee(s) will make a recommendation to the City Council, and the City Council shall make a final determination in accordance with Chapter 5.32.170.
- (d) The City’s Reservation of Rights:

The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided, including a failure to comply with other requirements in this Chapter, an application risks being rejected for any of the following additional reasons:

- (1) The application was received after designated time and date;
- (2) The application did not contain the required elements, exhibits, nor organized in the required format; or
- (3) The application was not considered fully responsive to this request for permit application.

Section 5.32.100. Expiration of Commercial Cannabis Business Permits.

Each commercial cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Commercial cannabis permits may be renewed as provided in Section 5.32.120.

Section 5.32.110. Suspension, Revocation and Renewal of Commercial Cannabis Business Permits.

- (a) The City Manager may suspend, revoke, or decline to renew any permit issued under this Chapter, or for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to Sections 5.32.120 or 5.32.190, or pursuant to any policy, procedure or regulation in this Chapter. Grounds for revocation, suspension, or non-renewal of a license or permit shall include the following:
 - (1) The failure of the permit holder to comply with the provisions of this Chapter or any other law pertaining to commercial cannabis businesses;
 - (2) The giving of false or misleading information by the permit holder in making application for a permit or in connection with an investigation conducted by the city or any other state, local or federal agency;
 - (3) The conviction of the licensee or permit holder of any felony or any offense involving gambling, narcotics, use of force or violence, theft, embezzlement or any other offense involving moral turpitude;
 - (4) Any cause for denying an original license or permit as set forth in this Chapter;
 - (5) The revocation, suspension, or non-renewal of associated state licenses/permits to operate a commercial cannabis business, which revocation, suspension or non-renewal the licensee shall disclose orally or by written communication immediately to the City Manager;
 - (6) The failure of the permit holder to diligently initiate business operations or to continue to carry on business operations in a manner substantially as set forth in the Business Plan, and Safety and Security Plan submitted in support of the permit holder's original or renewal application to operate a commercial cannabis business, as appropriate.
- (b) The determination of the City Manager to suspend, revoke or decline to renew a license or permit shall be made in writing and mailed or delivered

to the permittee. The determination of the City manager shall become effective ten (10) days following the date of the notice of that determination. The permittee may, during such ten-day period, appeal the determination of the City Manager to the City Council. If the permittee fails to file the notice of appeal within such ten-day period, the determination of the City manager shall be final and conclusive. If a written notice of appeal is filed with the City Clerk during such ten-day period, the determination of the City Manager shall be stayed pending the City Council's hearing and decision on the appeal.

- (c) If a permit is revoked, a new permit application may not be filed for one (1) year from the date of the revocation. For suspended licenses, if the cause for suspension has been corrected in a manner that is satisfactory to the City Manager, the City Manager may waive the one (1) year period.

Section 5.32.120. Renewal of Commercial Cannabis Business Permits.

- (a) An application for renewal of a commercial cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required on the renewal application form.
- (c) The applicant shall pay a fee in an amount to be set by the City Council via resolution to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (d) An application for renewal of a commercial cannabis business permit shall be rejected if any of the following exists:
 - (1) The application is filed less than sixty (60) days before its expiration.
 - (2) The commercial cannabis business permit is suspended or revoked at the time of the application.
 - (3) The commercial cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.
 - (4) The permittee fails or is unable to renew its State of California license.

- (5) If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the City's Municipal Code, of the state rules and regulations, or federal regulations and the City or state has determined that the violation is grounds for termination or revocation of the commercial cannabis business permit.
- (e) The City Manager or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with federal, state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Chapter 5.32.140.
- (f) If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

Section 5.32.130. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Colfax. At the City Manager or his or her designee's discretion, the cannabis business owner may reapply for a commercial cannabis business permit at such time as it can demonstrate that the grounds for revocation of the license by the state no longer exist, or that the underlying deficiency has otherwise been cured.

Section 5.32.140. Appeals

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in this Chapter.

Section 5.32.150. Written request for Appeal.

- (a) Within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (b) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

Section 5.32.160. Appeal Hearing.

- (a) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the City.
- (b) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- (c) At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (d) At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

Section 5.32.170 Permittee Selection Process.

- (a) The City Council shall adopt by resolution a procedure guideline and Review Criteria by which the top applicants in each permit category of each commercial cannabis business will be presented to the City Council for a final determination at a public hearing.
- (b) The top final applicants for each category may be invited to attend the City Council meeting, where they may be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.
- (c) At least ten (10) days prior to the hearing, notice of the hearing shall be sent to all property owners located within three hundred (300) feet of the proposed

business locations of each of the finalists to be considered by the City Council.

- (d) The City Council shall either deny or approve the final candidates and shall select the top candidates in each category of the commercial cannabis businesses. The City Council's decision as to the selection of the prevailing candidates shall be final.
- (e) Official issuance of the commercial cannabis business permit(s), however, is conditioned upon the prevailing candidate(s) obtaining all required land use approvals. Following the Council's selection, the prevailing candidate(s) shall apply to the City's Planning Department to obtain any required land use approvals or entitlements for the permittee's location, if any. Land use approvals shall include compliance with all applicable provisions of CEQA. The City Manager or his/her designee(s) shall formally issue the commercial cannabis business permit(s) once the City Planning Director or his/her designee(s) affirms that all of the required land use approvals have been obtained.
- (f) Issuance of a commercial cannabis business permit does not create a land use entitlement. The commercial cannabis business permit shall only be for a term of twelve (12) months and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with.
- (g) Notwithstanding anything in this Chapter to the contrary, the City Council reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a commercial cannabis business permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.
- (h) If an application is denied based on an applicant's failure to qualify, a new application may not be filed for one (1) year from the date of the denial. Each person granted a commercial cannabis business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the commercial cannabis business permit program created in this Chapter.

5.32.180 Change in Location; Updated Registration Form.

- (a) Any time the commercial cannabis business location specified in the regulatory permit has changed, the applicant shall re-register with the City Manager or his/her designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth for registration in sections 5.32.090 and 5.32.120.
- (b) The permit holder may not transfer to a new location within the City until approval of that location is made by the City Council. A change in location may be obtained only if the permit holder files an application with the City Manager in accordance with all provisions of this Chapter accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee), and the City Council determines, after hearing, in accordance with this Chapter that the transferee passed the background check required for owners and meets all other requirements of this Chapter.
- (c) Within fifteen (15) calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this chapter, including any change in the commercial cannabis business ownership or management members, the applicant shall file an updated registration form with the City Manager or his/her designee(s) for review along with a registration amendment fee, as set forth in section 5.32.090 and 5.32.120.

Section 5.32.190. Transfer of Cannabis Business Permit.

- (a) The owner of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to the permit from the City Council stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee), and the City Council determines, after hearing, in accordance with this section that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- (b) Commercial cannabis business permits issued through the grant of a transfer by the City Council shall be valid for a period of one year beginning on the day the City Council approves the transfer of the permit. Before the

transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.

- (c) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the City Council through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for permit revocation.
- (d) A permittee may change the form of business entity without applying to the City Council for a transfer of permit, provided that either:
 - (1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
 - (2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA, provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity. Although a transfer is not required in these two circumstances, the permit holder is required to notify the City Manager in writing of the change within ten (10) days of the change. Failure to comply with this provision shall result in permit revocation.
- (e) No commercial cannabis business permit may be transferred when the City Manager or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.
- (f) Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 5.32.200. City Business License.

Prior to commencing operations, a commercial cannabis business shall obtain a City of Colfax business license.

Section 5.32.210. Building Permits and Inspection.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

Section 5.32.220. Certification from the City Planning Director.

Prior to commencing operations, a commercial cannabis business must obtain a certification from the City Planning Director or his/her designee(s) certifying that the business is located on a site that meets all of the requirements of Title 17 of the City's Municipal Code.

Section 5.32.230 Location and Design of Cannabis Businesses

- (a) Commercial cannabis businesses permitted to engage in commercial cannabis activity are subject to the zoning and locational requirements contained in Section 17.162.080.
- (b) Each proposed cannabis business project shall:
 - (1) Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.
 - (2) Comply with all applicable zoning and related development standards.
 - (3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. For purposes of this section, "surrounding uses" shall include, but not be limited to, properties within 200' of any boundary of the property upon which the cannabis business is situated.
 - (4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 - (5) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
 - (6) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

Section 5.32.240. Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis business permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the commercial cannabis business on the owner's property.

Section 5.32.250. Limitations on City's Liability.

To the fullest extent permitted by law, the City of Colfax shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- (a) They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Colfax, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.
- (b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
- (c) Reimburse the City of Colfax for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Colfax may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Colfax may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 5.32.260. Records and Recordkeeping.

- (a) Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s).
- (b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- (c) Prior to state licensing, each commercial cannabis business shall maintain a record of all persons, patients, collectives and primary caregivers served by the commercial cannabis business, for a period of no less than four (4) years. Once a state license is obtained, the commercial cannabis business must maintain such records only to the extent permitted or required by the MAUCRSA.
- (d) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA. All inventory discrepancies shall be reported to the City within 7 days of the end of the prior month or a report stating no discrepancies found shall be issued. All discrepancies shall have a plan given to the City to find the cause and prevent the delta from re-occurring. The permittee shall be responsible to execute the plan and report to the City on its effectiveness. The City manager shall decide if the discrepancy is insignificant and may waive the plan.
- (e) Each commercial cannabis business shall allow City of Colfax officials to have access to the business's books, records, accounts, together with any

other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

Section 5.32.270. Security Measures.

- (a) A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (1) Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
 - (2) Establishing limited access areas accessible only to authorized individuals. Authorized individuals include employees of the commercial cannabis business as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the commercial cannabis business, shall be escorted at all times by an employee of the business. A commercial cannabis business shall maintain a log of all individuals who are not employees who are granted access to the limited access area.
 - (3) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss,
 - (4) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises and parking lot, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any

period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

- (5) Sensors shall be installed to detect entry and exit from all secure areas.
- (6) Panic buttons shall be installed in all commercial cannabis businesses.
- (7) Having a professionally installed, maintained, and remote monitored alarm system (perimeter, fire, and panic buttons).
- (8) Perimeter lighting systems (including motion sensors) for after-hours security.
- (9) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
- (10) Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage. This capability shall not rely on Uninterruptible Power Supply (UPS) backup batteries or through the use of a backup generator, unless the generator has sufficient fuel for a minimum of seven (7) days of unattended operation.
- (11) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the commercial cannabis business; or (b) a licensed security professional.
- (12) Each commercial cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (13) Each commercial cannabis business shall have emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

- (b) Each commercial cannabis business shall identify a designated security representative/liaison to the City of Colfax, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison, on behalf of the commercial cannabis business, shall maintain a copy of the current security plan on the premise of the business.
- (c) As part of the application and permitting process each commercial cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- (d) The commercial cannabis business shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, upon reasonable notice to the commercial cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (e) A commercial cannabis business shall notify the City Manager or his/her designee(s) within 7 days of the end of the prior month after discovering any of the following:
 - (1) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 - (2) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
 - (3) Any other breach of security.

Section 5.32.280. Restriction on Alcohol & Tobacco Sales.

- (a) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- (b) No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business.

Section 5.32.290. Compliance with Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, the Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a commercial cannabis business.

Section 5.32.300. Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (b) All commercial cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all permit, license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

Section 5.32.310. Operating Requirements for All Commercial Cannabis Businesses.

- (a) Commercial cannabis businesses may operate only during the hours specified in the commercial cannabis business permit issued by the City.
- (b) Cannabis and cannabis products shall not be consumed by any employee on the premises of any commercial cannabis businesses.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or

used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

- (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
- (e) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with State and local regulations.
- (f) There shall not be a physician located in or around any commercial cannabis business at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
- (g) Emergency Contact. Each commercial cannabis business shall provide the City Manager or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- (h) Signage and Notices.
 - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the Colfax Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
 - (2) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - (3) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.

- (4) Business identification signage shall be limited to that needed for identification only and shall not contain any information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - (5) Signage shall not be directly illuminated, internally or externally. No banners, flags, or other prohibited signs may be used at any time.
 - (6) Any signage, including billboards, shall be affixed to a building or permanent structure and shall not be located within a 15-mile radius of the California border on an Interstate Highway or on a State Highway that crosses the California Border.
- (i) Minors.
- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business, except as provided for under section 5.32.330(d). It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
 - (2) The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one(21) years of age is permitted to enter upon the premises of the commercial cannabis business, except as provided for under section 5.32.330(d).
- (j) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the City Planning Director or his/her designee(s) determine is a more effective method or technology:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (k) Display of Permit, City Business License and State License. The original copy of the commercial cannabis business permit issued by the City pursuant to this Chapter, the City issued business license and State license shall be posted inside the commercial cannabis business in a location readily-visible to the public.
- (l) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Sheriff or his/her designee(s) for a background check by the Placer County Sheriff's Office. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a commercial cannabis business unless they have first cleared the background check, as determined by the Sheriff or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Colfax to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.
- (m) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside on the premises of the facility.
- (n) Permits and other Approvals. Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

- (o) Each commercial cannabis business shall establish minimum training standard for all employees. The City Manager or his or her designee shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or State requirements.

Section 5.32.320. Other Operational Requirements.

The City Manager or his/her designee may develop other commercial cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare. All such operational requirements and regulations shall be placed on a public meeting agenda for review and approval by the City Council prior to being implemented.

Section 5.32.330. Operating Requirements for Retailer Facilities.

- (a) No more than the maximum number of cannabis retailers established by section 5.32.080 may operate within the City of Colfax at any one time.
- (b) Onsite consumption of cannabis or cannabis products is prohibited on the premises at all times.
- (c) The commercial cannabis retailer shall hire or contract for security personnel who are at least twenty-one (21) years of age to provide on-site security services during the hours of operation. All security personnel hired or contracted by the business shall be licensed by the Bureau of Security and Investigative Services. The City Manager or his/her designee at their discretion may authorize or approve the carrying of a firearm by licensed security personnel which shall be specified in the terms of the regulatory permit.
- (d) Retailer M-type License Owners and Operators are required to verify the age and the necessary documentation of each medical customer to ensure the customer is not under the age of eighteen (18) years, and to verify that the potential customer has a valid doctor's recommendation and/or Health & Safety Code 11362.71 identification card (Medical Marijuana Card). Doctor recommendations are not to be obtained or provided at the retail location.
- (e) Operating hours of the commercial cannabis retailer shall be limited between the hours of 6:00 a.m. through 10:00 p.m., seven days a week.

- (f) The commercial cannabis retailer shall only sell cannabis or cannabis products to a natural person 21 year of age or older or to a natural person 18 year of age or older who possesses a physician's recommendation.
- (g) Entrances into the dispensary shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary, to separate it from the reception/lobby area.
- (h) The commercial cannabis retailer may have on-site, in the retail sales area of the licensed facility, only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale. Additional cannabis and cannabis products may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.
- (i) All restroom facilities shall remain locked and under the control of management.
- (j) All Storefront Retailers who conduct delivery operations shall be subject to the operating requirements in Section 5.32.340.

Section 5.32.340. Operating Requirements for Non-Storefront Retailer and Deliveries.

- (a) It shall be unlawful for any person, limited liability company, corporation, collective, cooperative or any other entity to manage or operate a non-store front facility or a delivery service which sells, exchanges, barter, transfers, delivers and/or promotes, any cannabis or cannabis products in the City for commercial purpose unless they have been issued a commercial cannabis permit pursuant to Section 5.32.170 and are in compliance with Section 5.32.330.
- (b) All deliveries shall only take place during normal business hours of the retail cannabis business.
- (c) The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed the limit set by State Law.
- (d) Prior to commencing delivery operations, the retail cannabis business shall provide the following delivery vehicle information to the City:
 - (1) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.

- (2) The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
- (3) Proof of insurances as required by Section 5.32.250(b) for any or all vehicles used to deliver cannabis goods.

Section 5.32.350. Operating Requirements for a Cultivation Facility

- (a) Outdoor Commercial Cultivation is prohibited.
- (b) In no case, shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- (c) Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (e) A list of all pesticides and fertilizers on the property along with their projected annual usage shall be provided to the property owner to meet full disclosure of the property in the event of a sale or transfer of ownership or to a future tenant.
- (f) All cultivation operations must demonstrate compliance with the limitations on discharge into the City's wastewater system, as set forth in Colfax Municipal Code Chapter 13.08 and in any wastewater discharge permit issued by the City. This shall include the submittal of an Industrial Wastewater Permit Application, acquisition of a valid Industrial Waste Permit, inclusion of adequate pretreatment prior to discharge, and payment of all required Industrial Wastewater Fees.
- (g) All applicants for a cannabis cultivation permit shall submit to the following in addition to the information generally otherwise required for a commercial cannabis business:
 - (1) A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities

and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.

- (2) A description of a legal water source, irrigation plan, and projected water use.
- (3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
- (4) Plan for addressing odor and other public nuisances that may derive from the cultivation site.

Section 5.32.360. Operating Requirements for a Distribution Facility

- (a) A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premises.
- (b) After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- (c) A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- (d) The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provision within the California Code of Regulations.
- (e) A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept and made available to state and local authorities for a minimum of 180 days.
- (f) A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab.

Section 5.32.370. Operating Requirements for a Manufacturing Facility

- (a) No cannabis manufacturing facility shall conduct chemical extraction using a volatile solvent.
- (b) Cannabis manufacturing facilities may conduct cannabis extraction using the following methods:
 - (1) Mechanical extraction;
 - (2) Chemical extraction using a nonvolatile solvent such as a nonhydrocarbon-based or other solvent such as water, vegetable glycerin, vegetable oils, animal fats, or glycerin; or
 - (3) Chemical extraction using a commercially manufactured closed loop CO2 gas extraction system.
- (c) Nonhydrocarbon-based solvents, used in nonvolatile chemical extraction process, shall be food grade.
- (d) Chemical extraction using a CO2 gas extraction system shall be conducted in a commercially manufactured closed loop extraction system designed to recover the solvents.
- (e) Closed loop CO2 gas extraction systems must be commercially manufactured and bear a permanently affixed and visible manufacturer name, model number, serial number, and required certifications. The system shall be certified by a California-licensed engineer that the system was commercially manufactured, safe for use with the intended solvent, and built to codes of recognized and generally accepted good engineering practices, such as:
 - (1) The American Society of Mechanical Engineers (ASME);
 - (2) American National Standards Institute (ANSI);
 - (3) Underwriters Laboratories (UL); or
 - (4) The American Society for Testing and Materials (ASTM).
- (f) The certification document for a closed loop CO2 gas extraction system must contain the signature and stamp of the professional engineer or industrial hygienist and manufacturer name, model number, and serial number of the extraction unit being certified.
- (g) Commercially manufactured closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the

Fire Department and meet any required fire, life safety, and building code requirements specified in the California Building Reference Codes and National Fire Protection Association Standards.

- (h) Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Colfax in containers that exceed the maximum allowable quantity approved by the Fire Department in accordance with California Building Reference Codes and National Fire Protection Association Standards and authorized by the regulatory permit. Each site or parcel subject to a commercial cannabis business permit shall be limited to a total aggregate quantity of each gas as authorized by the Fire Department on the property at any time.
- (i) Any ethanol used in the manufacturing process shall not be stored on any property within the City of Colfax in containers that exceed the maximum of 100 gallons of ethanol up to 100% concentration.
- (j) Cannabis manufacturing facilities may use glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (k) Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- (l) Cannabis manufacturing facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- (m) Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely. A training plan and operator annual certification is required.
- (n) All cultivation operations must demonstrate compliance with the limitations on discharge into the City's wastewater system, as set forth in Colfax Municipal Code Chapter 13.08 and in any wastewater discharge permit issued by the City. This shall include the submittal of an Industrial Wastewater Permit Application, acquisition of a valid Industrial Waste Permit, inclusion of adequate pretreatment prior to discharge, and payment of all required Industrial Wastewater Fees.

- (o) A MSDS book for all chemicals and materials used in the business is required and shall be updated in real time and available for inspection.

Section 5.32.380. Operating Requirements for a Microbusiness Facility

- (a) A microbusiness must engage in at least three (3) of the following commercial cannabis activities; cultivation, manufacturing, distribution, and retail sale.
- (b) All cultivation, manufacturing, distribution, and retail activities performed by a permittee under a microbusiness permit shall occur on the same premises.
- (c) Areas of the premises used for manufacturing and cultivation shall be separated from the distribution and retail areas by a wall. Walls must extend vertically and continuously from the ceiling to the floor of the areas being separated and horizontally and continuously to create a complete separation between the areas being separated, except that a door may be installed to provide access between the separated areas. Areas above suspended ceilings must be blocked as well. All doors between the separated areas shall remain closed when not in use. All walls shall be subject to City prior approval and shall be constructed of solid materials that cannot be easily penetrated or breached, such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement.
- (d) As part of a microbusiness, commercial cannabis cultivation shall not exceed 10,000 square feet of canopy space.
- (e) As part of a microbusiness, commercial cannabis manufacturing is limited to nonvolatile extraction methods only.
- (f) In addition to the operating requirements established in this Section, a holder of a microbusiness permit shall comply with the operating requirements in the following Sections:
 - (1) A microbusiness engaged in retail shall be subject to the operating requirements in Section 5.32.330 and 5.32.340.
 - (2) A microbusiness engaged in cultivation shall be subject to the operating requirements in Section 5.32.350.
 - (3) A microbusiness engaged in distribution shall be subject to the operating requirements in Section 5.32.360.

- (4) A microbusiness engaged in manufacturing shall be subject to the operating requirements in Section 5.32.370.

Section 5.32.390. Operating Requirements for a Testing Facility

- (a) Any Testing Labs shall be required to conduct all testing in a manner compliant with Business and Professions Code Section 26100 and shall be subject to all applicable state and local laws. Each Testing Lab shall be subject to additional regulations promulgated, replaced or amended by the City or the State of California from time to time.
- (b) Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibration activities, including sampling using verified methods.
- (c) All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- (d) Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the Bureau.
- (e) Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- (f) Testing labs shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products are acquired or received.

Section 5.32.400. Promulgation of Regulations, Standards and Other Legal Duties.

- (a) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.

- (b) Regulations shall be published on the City's website.
- (c) Regulations promulgated by the City Manager shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his designee.

Section 5.32.410. Community Relations.

- (a) Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
- (b) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his/her designee(s) and other interested parties as deemed appropriate by the City Manager, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
- (c) Commercial cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a City approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

Section 5.32.420. Fees Deemed Debt to City of Colfax.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Colfax that is recoverable via an authorized administrative process as set forth in the Municipal Code, or in any court of competent jurisdiction.

Section 5.32.430. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Colfax, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

Section 5.32.440. Inspection and Enforcement.

- (a) The City Manager, or his/her designee(s) charged with enforcing the provisions of the Colfax Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- (b) It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.
- (c) The City Manager, Sheriff or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Colfax shall be logged, recorded, and maintained in accordance with the Sheriff's Office standards for evidence.

Section 5.32.450. Compliance with State Regulation.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Colfax in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 5.32.460. Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

Section 5.32.470. Each violation a separate offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all administrative citations and fines provided for in Colfax Municipal Code Chapter 1.25 together with all other remedies and enforcement measures authorized by the Colfax Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Colfax may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, Sheriff or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending a hearing before the City Council. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 5.32.480. Criminal Penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or the City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 5.32.490. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

CITY OF COLFAX
EXHIBIT B OF ORDINANCE NO. 542

AN ORDINANCE OF THE CITY OF COLFAX AMENDING TITLE 17 (ZONING) OF THE COLFAX MUNICIPAL CODE BY AMENDING SECTION 17.64.030 D (LISTING OF USE CLASSIFICATIONS -COMMERCIAL USE TYPES); 17.76.020 (PERMITTED USE TYPES – COMMERCIAL ZONE DISTRICTS PERMITTED USES); 17.80.020 (INDUSTRIAL ZONES – PERMITTED USE TYPES); CHAPTER 17.162 (MEDICAL MARIJUANA DISPENSARIES) TO ESTABLISH ZONING FOR COMMERCIAL CANNABIS ACTIVITIES WITHIN THE CITY OF COLFAX

Section 1: Colfax Municipal Code Title 17 (Zoning), Article III (Use and Zoning District Regulations) Chapter 17.64 (Use Type Classifications), Section 17.64.030 D (Listing of Use Classifications – Commercial Use Types) is hereby amended by adding the following use types:

- D. Commercial Cannabis Activities
 - Cultivation
 - Cultivation Nursery
 - Distributor
 - Manufacturer
 - Microbusiness
 - Retail
 - Testing Laboratory

Section 2: Colfax Municipal Code Title 17 (Zoning), Article III (Use and Zone District Regulations) Chapter 17.76 (Commercial Zones), Section 17.76.020 (Permitted Use Types) is hereby amended by adding the following commercial zone district permitted uses:

COMMERCIAL ZONE DISTRICTS PERMITTED USES		
COMMERCIAL USE TYPES	C-R	C-H
Commercial Cannabis Activites		
Cultivation	P	P
Cultivation Nursery	P	P
Distributor	P	P
Manufacturer	P	P
Microbusiness	P	P
Retailer	P	P
Testing Laboratory	P	P

Section 3: Colfax Municipal Code Title 17 (Zoning), Chapter 17.80 (Industrial Zones), Section 17.80.020 (Permitted Use Types) is hereby amended by adding the following industrial zone district permitted uses:

INDUSTRIAL ZONE DISTRICTS PERMITTED USES		
COMMERCIAL USE TYPES	I-L	I-H
Commercial Cannabis Activities		
Cultivation	P	P
Cultivation Nursery	P	P
Distributor	P	P
Manufacturer	P	P
Microbusiness	P	P
Retailer	P	P
Testing Laboratory	P	P

Section 4: Colfax Municipal Code Title 17 (Zoning), Article V (Special Area And Specific Use Regulations) Chapter 17.162 (Medical Marijuana Dispensaries) is hereby repealed and replaced as follows:

17.162.010 Purpose

The purpose of this chapter, in combination with Chapter 5.32, is to establish a comprehensive, uniform set of regulations applicable to commercial cannabis activity, as defined, within the city to ensure such operation is conducted in a manner consistent with the overall health, welfare and safety of the city and its populace and in compliance with all relevant state law. Nothing in this Chapter shall be construed as authorizing or intending to authorize any violation of federal, state or local laws, rules, regulations or ordinances.

The goals of this regulation include all of the following:

- A. To minimize the size of the illegal market for cannabis in the City of Colfax and surrounding areas.
- B. To create jobs, economic growth and tax revenue for the City and its residents.
- C. To enable law enforcement and regulators to have sufficient rights to inspect and audit commercial cannabis activity, as defined, and take expeditious action against persons or entities who violate the requirements of these regulations.
- D. To regulate the operation and location of commercial cannabis activity, as defined, such that public nuisance is minimized.
- E. To minimize social harms which may arise from unregulated cannabis activity.

17.162.020 Administration.

The City Manager, Community Services Director, the City’s chief building official, the Placer County sheriff and any employee or individual designated by any of those persons, are authorized to administer and enforce this chapter to ensure compliance.

17.162.030 Definitions

As used herein, the following definitions shall govern the construction of this chapter:

“Abatement costs” mean any costs or expenses reasonably related to the abatement of conditions which violate this chapter, and shall include, but not be limited to, enforcement, investigation, attorneys’ fees, collection and administrative costs, and the costs associated with removal and/or correction of the violation.

“Accessory structure” means a structure that is accessory to any principal structure and customarily a part thereof, which is clearly incidental and secondary to the principal structure and is significantly smaller in area than the principal structure and does not change the character of the principal structure or principal use of the premises.

“Administrative costs” mean the cost of City staff time, contracted staff time, Placer County sheriff time, other law enforcement time, and fire department time reasonably related to enforcement, for items including, but not limited to, site inspections, travel time, travel expenses, laboratory analysis, investigations, telephone contacts and time spent preparing summaries, reports, notices, correspondence, warrants and hearing packets, and the time expended by the code enforcement officer or designee to calculate the above costs and prepare itemized invoices.

“Authorized grower” means any person, including a person with an identification card, primary caregiver, or qualified patient, who is authorized by state law to grow cannabis for personal medical or non-medical use in compliance with local and state laws that authorize such cannabis cultivation.

“Cannabis,” “marijuana” “medical cannabis,” “medical marijuana,” and/or “marijuana products” shall be used interchangeably and means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

“Cannabis plant” means any mature or immature cannabis plant (and/or cannabis plant clone), or any cannabis seedling, unless otherwise specifically provided herein.

“Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

“Commercial cannabis activity” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transporting, delivery or sale of cannabis or cannabis products.

“Cultivation” means any activity involving the planting, growing, trimming, harvesting, drying, curing, grading, processing or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including a fully enclosed and secure structure or accessory structure.

“Retailer” means any facility, location, establishment or similar entity that distributes, delivers, or supplies cannabis for any purpose and shall include but not be limited to a dispensing collective or cooperative.

“Code enforcement officer” means any person employed or contracted by the City of Colfax and authorized to administer this chapter or his or her authorized deputies or designees, each of whom is independently authorized to enforce this chapter.

“Day care center” means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

“Fence (solid)” means a barrier constructed of wood or other materials which substantially forms an opaque screen.

“Fence (other than solid)” means a barrier constructed of posts made of wood, metal or any other rigid material connected with wire, fabric, boards or other materials which is intended to demarcate a boundary, separate land uses, secure animals, enclose property, exclude people and animals from a designated area, and the like, and which does not form a substantially visually opaque screen.

“Fully enclosed and secure structure” means a space within a building that has been approved by the City of Colfax and complies with the California Building Code, as adopted by the City of Colfax, or if exempt from the permit requirements of the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof; a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secured against unauthorized entry; and is accessible through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted or applied by the City of Colfax. Any detached, fully-enclosed and secure structure used for the cultivation of marijuana must have a ventilation and filtration system installed that shall prevent marijuana

plant odors from exiting the interior of the structure except through the ventilation and filtration system. Such structure shall be located in the rear yard area of a legal parcel or premises, maintain the setbacks set forth in the Colfax Municipal Code and the area surrounding the structure or back yard must be enclosed by a solid fence at least six feet in height. When this chapter allows that cultivation of marijuana occur indoors, the harvest of such marijuana shall also be accomplished indoors.

“Harvest” includes but is not limited to the drying, processing, or storage of marijuana which may only occur within a fully enclosed and secure structure or accessory structure.

“Immature cannabis plant” means a cannabis plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

“Indoors” means within a fully enclosed and secure structure or accessory structure capable of containing all parts of the plant.

“Legal parcel” means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

“Manufacturing” means the producing, preparing, propagating, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

“Mature cannabis plant” means a cannabis plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

“Medical marijuana collective” means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by agreement, or form a cooperative within the City in order to collectively or cooperatively cultivate marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include “cooperative” unless the context clearly indicates otherwise.

“Outdoor” or “outdoors” means any location within the City of Colfax that is not within a fully enclosed and secure structure or accessory structure as defined herein.

“Parcel” means a “legal parcel” as defined herein and a property assigned a separate parcel number by the Placer County assessor.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, cooperative or combination of the above in whatever form or character.

“Premises” means a single, legal parcel of property that includes an occupied legal residence, such as a house, an apartment, a condominium, a mobile home or other similar dwelling, which is a dwelling in compliance with the Colfax Municipal Code and has also met the requirements of this chapter. Where contiguous legal parcels are under common control or ownership, such contiguous legal parcels shall be counted as a single “premises” for purposes of this chapter.

“Primary caregiver” shall have the meaning set forth in Health and Safety Code Section 11362.7(d), as may be amended.

“Private residence” means a house, a duplex, an apartment unit, a condominium, a townhouse, a mobile home or other similar dwelling or premises.

“Qualified patient” shall have the meaning set forth in Health and Safety Code Section 11362.7(f), as may be amended.

“Recommendation” means a written current recommendation signed by a licensed California physician pursuant to Health and Safety Code Sections 11362.5 and 11362.7.

“Residential treatment facility” means a facility provided for treatment of drug and alcohol dependency, including any “sober living facility” run by treatment providers for the benefit of transitional living.

“School” means an institution of learning for minors, whether public or private, providing instruction in kindergarten or any grades 1 through 12.

“Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

17.162.040 Outdoor Personal Cannabis Cultivation

A. When authorized by state law, an authorized grower shall be allowed to cultivate cannabis outdoors for personal use only, subject to the regulations in this chapter and elsewhere in the Colfax Municipal Code and the following restrictions:

1. The regulations of this chapter and the Colfax Municipal Code shall apply to all outdoor personal cultivation of cannabis; and

2. A maximum of six plants on no more than one-hundred (100) square feet in total is allowed for outdoor cultivation of cannabis per parcel with a private residence. Cannabis plants may be cultivated on no more than one-hundred (100) square feet in total per parcel with a private residence, regardless of the number of authorized growers, qualified patients or primary caregivers residing in a private residence on the parcel. The total combined outdoor cultivation of cannabis per parcel with a private residence shall not exceed one-hundred (100) square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and

3. All outdoor personal cultivation of cannabis may only occur on a parcel with the private residence of the authorized grower, and the authorized grower may only cultivate cannabis on one parcel and may not cultivate outdoors if there is any indoor cannabis cultivation occurring on the parcel; and

4. All outdoor personal cultivation shall be setback by a minimum of ten (10) feet from all parcel property lines; and

5. All outdoor personal cultivation shall not be closer to an existing private residence on an adjoining property than to the private residence of the authorized grower on the parcel whereon the outdoor cultivation site is located; and

6. All outdoor personal cultivation shall be screened from all public rights-of-way, private access easements, and exterior property lines of the parcel where the outdoor cultivation takes place to prevent being easily visible to individuals on adjoining parcels or to individuals either passing through or by the subject parcel, and to prevent members of the public from gaining access; and

7. The use of volatile solvents is prohibited. For purposes of this ordinance, “volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gasses such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

8. The parcel where the outdoor personal cannabis is cultivated shall not be located within six hundred (600) feet of any school, church, park, library, day care center, or youth center. Such distance shall be measured in a straight line from the fence or other enclosure to the nearest boundary line of the premises upon which the school, church, park, daycare center, or youth center is located.

9. The area for the outdoor personal cultivation of cannabis shall not adversely affect the health or safety of the occupants of the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not

be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes; and

10. All outdoor personal cultivation shall be in accordance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein; and

11. All outdoor personal cultivation which exists prior to the enactment of this ordinance must be in compliance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Colfax to cause or allow such parcel to be used for the outdoor personal cultivation of cannabis, unless the person is authorized by state law to grow cannabis, and such authorized grower is complying with the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) repeated responses to the parcel or residence from enforcement officers; (3) a repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, (4) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; and (5) any other impacts on the neighborhood which are disruptive of normal activity in the area.

17.162.050 Indoor Personal Cannabis Cultivation

A. When authorized by state law, an authorized grower shall be allowed to cultivate cannabis indoors for personal use, subject to the following restrictions:

1. The regulations of this chapter and the Colfax Municipal Code shall apply to all indoor cultivation of cannabis; and

2. The indoor personal cultivation of cannabis is on a parcel upon which the private residence of the authorized grower is located. Each authorized grower may use only one private residence for the cultivation of cannabis. If the parcel and private residence are not owned by the authorized grower, the authorized grower must have a legal right to occupy and use the parcel and private residence to cultivate cannabis. The authorized grower shall obtain a written statement from the owner or owners of the parcel and private residence as proof to demonstrate that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this chapter. Nothing provided in this chapter requires the owner or owners of the parcel and private residence to consent to and allow the cultivation of cannabis by an authorized grower. Nothing provided in this chapter authorizes the cultivation of cannabis in violation of the rules of a home owner's association, deed restrictions, or other property conditions and covenants. If there is more than one owner of the parcel and private residence, all owners must have acknowledged, consented to

and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this chapter. The written statement shall be dated and signed by the owner or owners of the parcel and private residence. The written statement shall be valid for twelve (12) months from the signing of the written statement. If ownership of the parcel or private residence changes during the twelve (12) month period after the previous owner or owners had granted permission for the cultivation of cannabis, the authorized grower must obtain, within thirty (30) days of the change of ownership, a new permission statement from the new owner or owners of the parcel and private residence. Upon request by a code enforcement officer, the authorized grower shall provide the written statement from the owner or owners of the parcel and private residence as proof that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis; and

3. All indoor personal cultivation of cannabis may only occur inside a private residence that is a fully enclosed and secure structure located on the parcel or inside an accessory structure to a private residence that is a fully enclosed and secure structure on the parcel. There shall be no indoor personal cannabis cultivation if there is any outdoor personal cannabis cultivation occurring on the parcel at the same time; and

4. A maximum of six plants on no more than one-hundred (100) square feet is allowed for cultivation of cannabis in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and secure structure on a parcel. Cannabis plants may be cultivated on no more than one-hundred (100) square feet in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and secure structure on a parcel, regardless of the number of authorized growers, qualified patients or primary caregivers residing in a private residence on the parcel. The total combined indoor cultivation of cannabis per parcel with a private residence shall not exceed one-hundred (100) square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and

5. The area used for cultivation complies with applicable California Building, Plumbing, Mechanical, Electrical and Fire Codes, and the parcel has: (1) a permitted permanent water well or connection to a public water source drawing water, (2) does not engage in unlawful or unpermitted surface drawing of water for such cultivation, (3) does not permit illegal discharges of water from the parcel, (4) the parcel where the cultivation of cannabis takes place shall either be connected to a public sewer system or have a City or Placer County inspected and permitted sewage disposal system; and

6. The use of volatile solvents is prohibited. For purposes of this ordinance, “volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gasses such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.; and

7. The personal cultivation of cannabis is concealed/secured so that it is not visible from the exterior of the private residence or accessory structure, the parcel, the public right-of-way, and/or neighboring properties, and is not accessible by underaged occupants or the general public; and

8. The area for the cultivation of cannabis shall not adversely affect the health or safety of the occupants of the private residence or the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not be maintained to constitute a hazard due to use or storage of materials, processes, products or wastes; and

9. All indoor personal cultivation is in accordance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter; and

10. All indoor personal cultivation which exists prior to the enactment of this ordinance must be in compliance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Colfax to cause or allow such parcel to be used for the indoor personal cultivation of cannabis, unless the person is authorized by state law to grow cannabis, and such authorized grower is complying with all requirements of this chapter.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) repeated responses to the parcel or residence from enforcement officers; (3) a repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, (4) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; or (5) any other impacts on the neighborhood which are disruptive of normal activity in the area.

17.162.060 Commercial Cannabis Activity Prohibited.

Commercial cannabis activity, as defined, within the City of Colfax is prohibited except as expressly permitted by this chapter or as otherwise allowed by Colfax Municipal Code Chapter 5.32.

17.162.070 Permit Requirements

Commercial cannabis activity, as defined, is permitted in the City only as expressly provided by this chapter and Chapter 5.32 as periodically amended.

17.162.080 Locational Limitations

Commercial cannabis businesses shall be conditionally permitted on appropriately zoned parcels within the City and shall be subject to the following location requirements:

- A. A commercial cannabis business shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the permit is issued.
- B. A commercial cannabis business shall not be located within the City of Colfax Historic Core of the Historic District Overlay (Assessor Parcel Numbers: 006-022-012-000, 006-022-013-000, 006-022-025-000, 006-022-026-000, 006-033-021-000, 006-042-005-000; 006-043-002-000 through 006-043-004-000; 006-043-006-000; 006-043-007-000; 006-043-013-000; 006-061-007-000, 006-061-018-000, 006-061-019-000, 006-064-002-000, 006-064-004-000, 006-064-008-000 through 006-064-010-000; 006-065-002-000 through 006-065-006-000; 006-066-001-000; 006-066-004-000 through 006-066-007-000; 006-066-009-000 through 006-066-014-000; 006-066-016-000 through 006-066-021-000; 006-066-024-000 through 006-066-031-000; 006-067-001-000 through 006-067-011-000; 006-071-002-000 through 006-071-010-000; 006-071-ROW-000; 006-072-001-000; 006-072-002-000; 006-091-002-000; 006-091-003-000; 006-091-006-000; 006-091-007-000; 006-091-023-000; 006-091-025-000; 006-091-029-000; 006-091-030-000; 006-091-032-000; 006-091-042-000; 006-091-044-000; 006-091-045-000; 006-093-021-000, and 006-093-022-000). [A map of the Core of the Historic District Overlay is attached and incorporated into this Ordinance by reference.](#)
- C. A commercial cannabis business shall not be in a location that requires persons to pass through a business that sells alcohol or tobacco or a private residence to access the licensed premises.
- D. A commercial cannabis business shall not be in a location that that requires persons to pass through the commercial cannabis business to access a business or establishment that sells alcohol or tobacco, or to access a private residence.
- E. Notwithstanding the locational requirements established in subsection (A) of this section, the City Council shall have the authority, pursuant to Business and Professions Code Section 26054(b), to adjust the distances of the buffer zones at their discretion.

17.162.90 Measure of Distance

- A. All locational requirements set forth in Section 17.162.080 shall be measured from the nearest property line of one designated location to the nearest property line of the other designated location along a straight line extended between the two points without regard to intervening structures.

17.162.100 Enforcement

A. Public Nuisance. Violation of this chapter is hereby declared to be a public nuisance and subject to the enforcement process as set forth herein.

B. Abatement Authority.

1. The City of Colfax may, in its discretion, abate the violation of this chapter by prosecution of a civil action, including an action for injunctive relief without first going through the administrative procedures set forth herein. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this chapter or requiring compliance with other terms.

2. The City may also abate the violation of this chapter through any lawful abatement process established by California law.

C. Abatement Procedures.

1. Whenever a code enforcement officer determines that a public nuisance (as defined in this chapter) exists, he or she shall post a seventy-two (72) hour notice to abate on the property where the public nuisance exists, and mail a copy of the same to those persons shown on the latest county tax roll or equivalent registry to be the owners of the property. The seventy-two (72) hour notice to abate shall inform the owner and/or tenants of the basis for the violation, and that an administrative penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis outside the allowed one-hundred (100) square feet; explain that if the violation is not corrected, the matter will be set for a nuisance abatement hearing, at which time the administrative penalty will increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis outside the allowed one-hundred (100) square feet and explain that to prevent the accrual of additional penalties and costs, the owner or tenant must contact the code enforcement officer and arrange a time for a code enforcement officer to inspect the property, and confirm that the violation(s) have been corrected.

2. If the nuisance continues to exist after the expiration of the seventy-two (72) hour period, a code enforcement officer may set the matter for hearing by issuing a notice of nuisance abatement hearing. If the matter is set for hearing, the code enforcement officer shall post the property upon which the public nuisance exists and shall mail, with a proof of service, notices to those persons known to be in possession of the property, if any, and to persons shown on the latest county tax roll or equivalent registry to be the owners of the property at least five days prior to the hearing. The administrative penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis outside the allowed one-hundred (100) square feet from the date the notice of nuisance abatement hearing is posted on the property.

3. All hearings conducted under this chapter shall be held before a hearing officer designated by the City.

4. At the time and place set for the hearing, the hearing officer shall hear testimony and receive written and/or documentary evidence relating to the alleged violation. Additional procedural rules may be adopted by resolution of the Colfax City Council. The City shall record the hearing, and provide a copy of the recording to the hearing officer following the conclusion of the hearing. The City shall preserve the record of the hearing, and all photographs and demonstrative and documentary evidence at the time of the hearing, for a period of three years.

5. Within three days after the hearing is closed, the hearing officer shall render his or her written decision relating to the existence or nonexistence of the alleged public nuisance. If a violation is found to have existed at the time the notice of nuisance abatement hearing was posted, the decision shall include a statement that the City is entitled to recover its administrative costs and administrative penalties. If the hearing officer determines that the violation continues to exist, the decision shall also order that the owner of the property, or persons known to be in possession of the property, abate the violation within a reasonable time, not to exceed five days from the date the decision is placed in the mail. A copy of the decision shall be mailed by certified mail, return receipt requested, to the person or persons shown on the last City tax roll or equivalent registry to be the owners of the property which is the subject of the hearing and the occupant of such parcel, if any. All other persons noticed pursuant to this section shall be mailed a copy of the decision by first class mail, postage prepaid. The decision of the hearing officer shall be final and conclusive on the date the decision is deposited in the mail.

6. a. Notwithstanding any other provisions of this code, if a final decision of the hearing officer finds that a violation exists and the public nuisance is not voluntarily abated within five days of said decision being placed in the mail by the hearing officer, the City may abate the public nuisance by cutting and/or removing all cannabis plants from the property, pursuant to a warrant issued by a court of competent jurisdiction. The owner or owners of the property shall be responsible for paying all of the City's abatement costs and administrative costs, and administrative penalties. The code enforcement officer, or designee, shall keep an accounting of the abatement and administrative costs for each case. Upon completion of the abatement of the nuisance, whether by the City or the owner or tenant, the code enforcement officer, or designee, shall post the property and send a bill to the owner, and any persons known to be in possession of the property, requesting payment of the City's abatement and administrative costs, as well as all administrative penalties. The bill shall also state that failure to pay the costs and penalties within fifteen (15) days from service of the bill may result in the recording of a lien and the placement of a special assessment against the property.

b. If the City's costs and penalties are not paid within fifteen (15) days from service of the bill, the code enforcement officer, or designee, shall render an itemized report to the City Clerk for submittal to the City Council for hearing and consideration regarding the proposed lien and special assessment. The report shall include the names and addresses of the owner of record and any persons known to be in possession of the property, and an itemized account of the City's abatement costs, administrative costs, and administrative penalties. At least fifteen (15) days prior to said hearing, the City Clerk shall give notice, with proof of service, of said hearing to all persons named in the code enforcement officer, or designee's, report and shall post the property with a copy of the notice. The notice shall describe the property by assessor's parcel number and street number or other description sufficient to enable identification of the

property and contain a statement of the amount of the proposed lien and special assessment. The notice shall also contain a statement that the Council will hear and consider objections and protests to the proposed lien and special assessment at the designated time and place.

7. At the time and place fixed in the notice, the City Council shall hear and consider the proposed lien and special assessment together with objections and protests thereto. At the conclusion of the hearing, the City Council may make such modifications and revisions to the proposed lien and special assessment costs it deems just and may order that the proposed lien and special assessment be recorded and specially assessed against the property by the Placer County auditor-controller's office. The lien shall have the same force, priority and effect as a judgment lien and the special assessment shall have the same priority as other City taxes.

8. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the date upon which the decision of the hearing officer was issued, describe the real property subject to the lien, set forth the amount of the costs and penalties incurred to date and, if applicable, the date upon which the abatement was completed. If the abatement has not yet been completed, the notice shall so state and shall also indicate that the lien is a partial lien and that additional abatement costs will be incurred in the future.

9. A copy of any notice required by this chapter or decisions of either the hearing officer, City Council or designee as required by this chapter may be recorded in the office of the County Recorder of Placer County.

a. Release of Notice. Where a notice has been served as required by this chapter and a hearing body has determined that sufficient grounds do not exist for nuisance abatement, or where the owner of an affected premises has corrected the condition that was the basis for initiation of enforcement action, the official shall record a satisfaction release and removal of notice of nuisance or notice of nuisance abatement.

b. Payment of Costs Prior to Release. In the event that enforcement costs have been incurred in the investigation/processing of a violation for which a notice is required, the release of such notice shall not be recorded until all such costs have been reimbursed to the City.

c. Attorney Fees. In any action to foreclose on a lien issued pursuant to this chapter, the City shall be entitled to an award of attorney's fees and costs.

D. Abatement Costs—Administrative Costs. In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of attorneys' fees incurred by the City in the action or proceeding.

E. Summary Abatement. Notwithstanding any other provision of this chapter, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in subsection C of this section would not result in abatement of

that nuisance within a short enough time period to avoid that threat, the City Manager, Community Services Director or designee may direct any officer or employee of the City to summarily abate the nuisance. The code enforcement officer shall make reasonable efforts to notify the persons identified in subsection C.2 of this section but the formal notice and hearing procedures set forth in this chapter shall not apply. The City may nevertheless recover its costs for abating that nuisance in the manner set forth in this chapter.

17.162.110 Non-Exclusive Remedy

This chapter is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances under this chapter or by applicable law.

17.162.120 Administrative Penalties

It is unlawful and a public nuisance to violate any of the provisions of this chapter and the City shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief. In addition to the penalties set forth herein, any person that violates the provisions of this chapter may be subject to administrative remedies, citations and fines, as set forth by City ordinance. Unless otherwise expressly provided, the remedies, procedures and penalties provided by this section are cumulative to each other and to any others available under state law or other City ordinances.

A. For violation of Section 17.162.040 (Outdoor personal cannabis cultivation), a civil penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed one-hundred (100) square feet; however, if a notice of nuisance abatement hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants and one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed one-hundred (100) square feet.

B. For violation of Section 17.162.050 (Indoor personal cannabis cultivation), a civil penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed one-hundred (100) square feet; however, if a notice of nuisance abatement hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed one-hundred (100) square feet.

C. For violation of Section 17.162.060 (Prohibition of commercial cannabis activity), a civil penalty of one thousand dollars (\$1,000.00) per plant for each violation of commercial cannabis cultivation and a civil penalty of five thousand dollars (\$5,000.00) per day for all other violations.

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G. At the nuisance abatement hearing, the hearing officer shall determine the total amount of administrative penalties that have accrued at the time of the hearing, and that amount shall be reflected in the decision and awarded to the City. Administrative penalties shall not be awarded if the property owner establishes all of the following: (1) that, at the time he or she acquired the property, a violation of this chapter already existed on the property; (2) the property owner did not have actual or constructive notice of the existence of that violation; and (3) prior to the nuisance abatement hearing, the property owner initiates and pursues, with due diligence, good faith efforts, to meet the requirements of this code. In his or her decision, the hearing officer may compromise the amount of any administrative penalties. When determining whether to compromise any penalty amount, the hearing officer shall take into consideration the nature, circumstances, and gravity of the violation(s), any prior history of violations, the degree of culpability, the financial burden to the person(s) upon whom the penalty has been imposed, the degree to which the proposed compromise will facilitate collection of the penalties without the need for further legal action, and any other matters justice may require. If at the time of the hearing the nuisance has yet to be abated, the decision shall state that the administrative penalties shall continue to accrue as specified in subsections A through F of this section until the nuisance is abated. The decision of the hearing officer shall be final and conclusive on the date the decision is deposited in the mail.

H. Any decision regarding the amount of administrative penalties imposed by a hearing officer pursuant to this chapter may be appealed by any aggrieved person to the Colfax City Council as follows:

1. Appeal Subject. Any appeal under this section shall be limited to the amount of administrative penalties imposed by the hearing officer.

2. Timing and Form of Appeal. An appeal must be filed within ten (10) days from the date the decision was deposited in the mail. Appeals filed more than ten (10) days after the decision was deposited in the mail shall not be accepted for filing. A notice of appeal shall be in writing, shall include a detailed statement of the factual and/or legal grounds upon which the appeal is being taken and shall include a copy of the decision of the hearing officer. The appeal shall be accompanied by the filing fee set by the most current City fee schedule.

3. Filing and Processing. An appeal shall be filed with the City Clerk, who shall process the appeal pursuant to this section, including scheduling the matter before the City Council. The Colfax City Council may designate a subcommittee of two or three members to hear and rule upon any appeal provided for in this section.

4. Effect of Filing. In the event of an appeal under this section, only the decision as to the amount of the administrative penalties shall be set aside and have no effect until final action by the appeal body pursuant to this section. The appeal shall have no effect on any other factual or legal determination of the hearing officer.

5. Report and Scheduling of Hearing. When an appeal has been filed under this section, the City Manager, or designee, shall prepare a report on the matter and shall schedule the

matter for consideration by the City Council (or subcommittee so designated) after completion of the report.

6. This Section intentionally omitted.

7. Action and Findings. After an appeal has been scheduled by the City Clerk, the City Council (or subcommittee so designated) shall conduct a public hearing. At the hearing, the City Council (or subcommittee so designated) shall initiate a discussion limited only to the amount of the administrative penalties imposed by the hearing officer and, in addition, the specific grounds for appeal.

a. The City Council (or subcommittee so designated) may affirm, affirm in part, reverse or reverse in part the decision or determination of the hearing officer as to the amount of the administrative penalties imposed based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this chapter.

b. A decision by the City Council (or sub-committee so designated) under this section shall be final.

8. Time Limits on Appeals. Upon receipt of an appeal in proper form, the City Council (or subcommittee so designated) shall schedule the matter for consideration by the City Council. The City Council, or a subcommittee thereof, shall commence a public hearing on the appeal within ninety (90) days of its proper filing, or within such other time period as may be mutually agreed upon by the appellant, in writing, and the appeal body, in writing. If the public hearing is not commenced within ninety days, or an alternative time period is not agreed upon by the appellant and the appeal body, the decision rendered by the hearing officer shall be deemed affirmed. Once commenced, a public hearing on an appeal may be continued from time to time for good cause.

9. Withdrawal of Appeal—Hearing Decisions. After an appeal of a decision has been filed, an appeal shall not be withdrawn except with the consent of the appropriate hearing body.

I. All money and assets collected in payment for penalties for violations of this chapter and all money and assets collected for recovery of costs of enforcement of this chapter shall be used to offset the cost of enforcement of this chapter.

17.162.130 Criminal Penalty Provisions

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

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

17.162.140 No Duty To Enforce

Nothing in this chapter shall be construed as imposing on any code enforcement officer or the City of Colfax any duty to issue a notice to abate, nor to abate any violations of this chapter and neither the code enforcement officer, nor the City, shall be held liable for failure to issue an order to abate any violation of this chapter.

17.162.150 Severability

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

All provisions of Colfax Municipal Code Title 17 that are not amended or repealed and replaced by this ordinance shall remain in full force and effect.