



Town of Paradise Town Council Special Meeting Agenda 3:30 PM – February 23, 2021

Town of Paradise Council Chamber – 5555 Skyway, Paradise, CA

Mayor, Steve Crowder
Vice Mayor, Jody Jones
Council Member, Greg Bolin
Council Member, Steve “Woody” Culleton
Council Member, Rose Tryon

Town Manager, Kevin Phillips
Town Attorney, Mark A. Habib
Town Clerk, Dina Volenski
Community Development Director, Susan Hartman
Community Development Director, Tony Lindsey
Administrative Services Director/Town Treasurer – Vacant
Public Works Director/Town Engineer, Marc Mattox
Division Chief, CAL FIRE/Paradise Fire, Garrett Sjolund
Chief of Police, Eric Reinbold
Disaster Recovery Director, Katie Simmons

Meeting Procedures

- I. The Mayor is the Presiding Chair and is responsible for maintaining an orderly meeting. The Mayor calls the meeting to order and introduces each item on the agenda.
- II. The Town staff then provides a report to Council and answers questions from the Council.
- III. Citizens are encouraged to participate in the meeting process and are provided several opportunities to address Council. Any speaker addressing the Council is limited to three minutes per speaker - fifteen minutes per agenda item

PUBLIC PARTICIPATION

In accordance with Governor Newsom’s Executive Order N-29-20, remote public participation is allowed in the following ways:

Town Council meetings are available to be viewed on YouTube at
<https://www.youtube.com/channel/UCpo2Gy0EGJwcFvDU2xnigbw>

Public comment will be accepted by email with the subject line PUBLIC COMMENT ITEM ____ to dvolenski@townofparadise.com prior to 2:00 p.m. on the day of the meeting, If you are unable to provide your comments in writing, please contact the Town Clerk’s office for assistance at (530) 872-6291.

Comments may be submitted by telephone during the meeting, by calling (530) 872-5951 at the time indicated by the Mayor. Alternately you may send an email with the subject line:

TELEPHONE PUBLIC COMMENT ITEM ____ to the Town Clerk dvolenski@townofparadise.com prior to 12:00 p.m. on the day of the meeting, include your telephone number and the Mayor will call you during that item.

In compliance with the Americans with Disabilities Act (ADA) Compliance, persons who need special accommodations to participate in the Town Council meeting may contact the Town Clerk at least three business days prior to the date of the meeting to provide time for any such accommodation.

1. OPENING

- 1a. Call to Order
- 1b. Pledge of Allegiance to the Flag of the United States of America
- 1c. Roll Call

2. COUNCIL CONSIDERATION

- 2a. pg3 1. Consider waiving first reading of the entire Town Ordinance No. 604 and approve reading by title only; and 2. Introduce Town of Paradise Ordinance No. 604, An Ordinance Adding Chapter 13.13 to the Paradise Municipal Code Relating to Undergrounding New Utility Infrastructure; or, 3. Delay and/or modify recommended action. (ROLL CALL VOTE)
- 2b. pg11 Consider waiving the reading of entire Town of Paradise Urgency Ordinance No. 605 and Adopt Town of Paradise Urgency Ordinance No.605, "An Urgency Ordinance of the Town Council of the Town of Paradise Repealing Urgency Ordinance No. 602 and Adopting New Ordinance Relating to Requirements of a Mandatory Hazard Tree Removal Program Inside the Camp Fire Area" (ROLL CALL VOTE)
- 2c. pg45 1.Consider approving the salary schedule for part-time/hourly Building/Onsite Inspector I and Building/Onsite Inspector II positions effective February 23, 2021; and, 2. Authorizing the addition of up to four (4) less than half-time, part-time/hourly Building/Onsite Inspector I and Building/Onsite Inspector II positions to the FY 2020/21 salary pay plan and position control effective February 23, 2021; and, 3. Authorizing the addition of a 25 hour per week, part-time Building/Onsite Inspector I position effective February 23, 2021. (ROLL CALL VOTE)
- 2d. Consider discussion of future Town Attorney services and provide direction to staff.

3. ADJOURNMENT

STATE OF CALIFORNIA)	SS.
COUNTY OF BUTTE)	
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk's Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	
<hr/>	
TOWN/ASSISTANT TOWN CLERK SIGNATURE	



TOWN OF PARADISE
Council Agenda Summary
Date: February 23, 2021

Agenda No. 2(a)

ORIGINATED BY: Marc Mattox, Public Works Director / Town Engineer

REVIEWED BY: Kevin Phillips, Town Manager

SUBJECT: Adoption of Ordinance No. ____ Adding Chapter 13.13 to the Paradise Municipal Code Relating to Undergrounding New Utility Infrastructure

COUNCIL ACTION REQUESTED:

1. Consider waiving the first reading of the entire Town of Paradise Ordinance No. ____ and approve reading by title only; and
2. Introduce Town of Paradise Ordinance No. ____, An Ordinance Adding Chapter 13.13 to the Paradise Municipal Code Relating to Undergrounding New Utility Infrastructure; OR
3. Delay and/or modify recommended action. (ROLL CALL VOTE)

Background:

During the 2018 Camp Fire, evacuation corridors in Paradise were adversely affected by burned wooden utility poles carrying electric and telecommunication lines which had fallen into the roadway, creating extremely hazardous and precarious situations for the evacuating general public, as well as first responders in their attempt to assist with evacuations, firefighting and saving lives and property.



A burned utility pole crossing a Paradise evacuation route during the Camp Fire. Source: AP/Getty Images

Immediately following the fire, temporary poles were erected to serve customers with standing homes.

In conjunction with the Town's preparation of a Long-Term Recovery Plan, PG&E announced in May 2019 that it would begin an unprecedented project of undergrounding all electric distribution infrastructure in Paradise. The goal of reducing wildfire risk, meeting the community's desire for unobstructed egress and the Town's community engagement process helped drive this decision.

In July 2019, Paradise Town Council adopted the community's Long-Term Recovery Plan which identified Underground Utilities as one of the highest priority Partner-led projects, a critical component to the rebuilding of Paradise. The Plan also reinforces the Town's expectation that communication companies, Comcast and AT&T, will follow suit as utility poles are combustible and can block egress routes in a fire. This plan was created and vetted by the residents immediately following the Camp Fire for the express purpose of guiding and directing the disaster recovery process.

In late 2019, Paradise Town Council adopted and enacted a "Dig-Once" Policy, which states by ordinance that the Town of Paradise and servicing utility companies must continuously communicate and coordinate relating to underground joint-trench opportunities. This Policy, however, does not mandate any utility company to join underground trenches against their own will.

Since the adoption of the Long-Term Recovery Plan, PG&E has completed over 48 miles of undergrounding work in Paradise. Concurrently, Paradise Town Council has tasked staff with ensuring existing, temporary and future overhead/aerial utility infrastructure are installed underground.

In June 2019, Paradise Town Council adopted new code which requires utilities to be installed underground between the public right of way and service lateral to the property for new and rebuild construction.

Analysis:

Staff has prepared a proposed ordinance that, if adopted, would require all future traditionally overhead/aerial utility infrastructure to be installed underground. This ordinance would be also applicable to temporary, unpermitted infrastructure installed after the 2018 Camp Fire in addition to future development and projects.

This project is exempt from CEQA under the authority: Categorical Exemption 14 CCR Section, 15302(d), Exempts Undergrounding of Utility Systems and 14 CCR Section 15308 Protection of Environment.

Financial Impact:

There are no direct financial impacts to the Town of Paradise through adoption of this ordinance.

**TOWN OF PARADISE
ORDINANCE NO. _____**

**AN ORDINANCE ADDING CHAPTER 13.13 TO THE PARADISE MUNICIPAL CODE
RELATING TO UNDERGROUNDING UTILITY INFRASTRUCTURE**

The Town Council of the Town of Paradise, State of California, does **ORDAIN AS FOLLOWS:**

SECTION 1. Chapter 13.13 is hereby added to the Paradise Municipal Code to read as follows:

CHAPTER 13.13

UNDERGROUNDING NEW UTILITY INFRASTRUCTURE

Section 13.13.010	Findings and Purpose
Section 13.13.020	Definitions
Section 13.13.030	Prohibition
Section 13.13.040	Notice
Section 13.13.050	New and remodeled or repaired construction
Section 13.13.060	Utility Improvements to be underground

13.13.010 Findings and Purpose

It is declared that the public health, safety and general welfare require the regulation and control of wires, poles and other wire-carrying structures within the town. The provisions of this chapter are adopted to preserve, protect and best serve the public peace, health, safety and general welfare of the Town of Paradise and its residents based on the following findings:

- A. Public Utilities Code section 2902 provides that municipal corporations may regulate the relationship between a public utility and the general public in matters affecting the health and safety of the general public, including the location of poles, wires, mains or conduits or any public utility on, under or above any public street.
- B. Public Utilities Code section 7901 provides that telecommunication companies may only operate in a manner that does not interfere with the public use of the road.

C. Public Utilities Code section 7901.1 authorizes the Town of Paradise to reasonably regulate the time, place and manner in which public utilities access public roads.

D. On November 8, 2018, the Town of Paradise suffered a devastating wildland fire known as the Camp Fire, which was the most destructive wildland fire in the history of California.

E. The Camp Fire burned through the town despite firefighters' best efforts. Evacuation orders were in place and numerous severe public health and safety hazards were present in the Camp Fire area, including many blocked roads from fallen power and other public utility poles and lines throughout the Camp Fire area that made it difficult for residents to evacuate from the raging fire.

F. The Camp Fire resulted in 86 persons dying and consumed 153,336 acres and caused the destruction of 13,696 residences, damage to 462 residences, the destruction of 276 multiple family residences, the destruction of 528 commercial buildings, damage to 102 commercial buildings, the destruction of 4,293 other minor structures, and resulted in the evacuation of over 50,000 people and did enormous damage to the environment.

G. The Town is located in a Very High Fire Hazard Severity Zone as shown in the California Department of Forestry and Fire Protection's Fire and Resource Assessment Program map dated November 7, 2007.

H. In consideration of the above findings, the Town of Paradise is in a unique position to protect the environment and public safety and to facilitate the objectives of the Paradise Community Long-Term Recovery Plan by ensuring that all traditionally overhead utility infrastructure is placed underground.

13.13.020 Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

(A) "Commission" means the California Public Utilities Commission.

(B) "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees.

(C) "Poles, overhead wires and associated overhead structures" mean poles, towers, supports, wire, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within the Town and used or useful in supplying electric, communication or similar or associated service except for cellular communication towers.

(D) "Utility" includes all persons or entities supplying electric, telecommunication, broadband, television or similar or associated service by means of electrical materials or devices.

13.13.030 Prohibition

After _____, 2021, it shall be unlawful for any person or utility to erect, construct or place poles, overhead wires and associated overhead structures in the town, except to the extent overhead utilities may be temporarily required to furnish service to an owner or occupant of property prior to the installation of the underground utility service.

13.13.040 Notice

Within 10 days after the effective date of this chapter, the Town Clerk shall notify all affected utilities of the requirements of this chapter.

13.13.050 New and remodeled or repaired construction

After _____, 2021, all building and electrical permits issued for the construction of new homes, buildings and other structures that require electrical, telecommunication, broadband, television service, or other services provided by means of wires, cables or electrical conduits, and all alterations, remodeling or repairs of a structural nature to an existing structure, where the value of such alterations, repairs or remodeling in any calendar year exceeds the assessed valuation of the structure or the sum of \$20,000.00, whichever is less, shall require that conduits or conductors for such services shall be installed underground between the location of the main service switches or service entrance to such structures, and the poles, junction or pull boxes from which such service is supplied by the utility company, provided that such service is available to the property by pole, junction or pull box that is situated in the public street on the same side of the street as the structure and within the extension of the property lines of the parcel on which the structure is located. Exceptions to the requirements of this section may be permitted by the Town Council, upon application of the permit applicant or the supplying utility company, in cases where such undergrounding cannot be accomplished feasibly within applicable safety regulations and other laws applicable to the installation, or in cases of unnecessary or unusual hardship. Exceptions shall be made upon such conditions as the Council may prescribe in order to further the health, safety and general welfare objectives and purposes set forth in this chapter. All installations made pursuant to this section shall be made in compliance with all applicable building and electrical codes and safety orders and other applicable rules promulgated and approved by the California Public Utilities Commission. Installations within streets and alleys shall be made at depths and locations approved by the Town Engineer and in accordance with plans and specifications approved by the Town Engineer.

13.13.060 Utility Improvements to be underground

(A) After _____, 2021, all distribution lines supplying electrical energy to residential dwelling units, and nonresidential developments whose value as calculated for the purpose of issuing a building permit exceeds \$_____, at standard voltages necessary to furnish permanent electrical service to developments, and all telecommunication, broadband and television services, and any other service to developments that are provided by means of wires, cables or conduits designed to carry electrical energy or electromagnetic energy of any kind whatsoever, be they constructed via joint-pole electrical distribution lines or independent systems, shall be installed and maintained underground. Such installations shall be made in compliance with all applicable building and electrical codes, safety regulations and orders, and rules and regulations approved and promulgated by the California Public Utilities Commission. The depth and location of such installation within the streets and easements shall be approved by the Town Engineer. This section shall be applicable to all existing and proposed services described in this section.

(B) After _____, 2021, all electrical utility main feeder lines supplying electrical energy to residential dwelling units, and nonresidential developments whose value as calculated for the purpose of issuing a building permit exceeds \$_____, at high voltages necessary to furnish permanent electrical service to developments within regional service areas shall be permitted to remain overhead, but a vacant conduit system shall be placed underground to allow undergrounding of these facilities in the future. Where relocation of such overhead lines is necessitated by project improvements and/or existing conditions and facilities, such relocation shall also be permitted to be overhead. Such installations shall be made in compliance with all applicable building and electrical codes, safety regulations and orders, and rules and regulations approved and promulgated by the California Public Utilities Commission. The depth and location of such installations within streets and easements shall be approved by the Town Engineer. This section shall be applicable to all existing and proposed services described in this section located or proposed to be located within the subject development or adjacent to and located on the same side of the street as the subject development.

(C) Equipment appurtenant to underground facilities such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, concealed ducts, and poles or electroliers used exclusively for street lighting and/or traffic signals may be located aboveground, provided all wires leading to or from the equipment are located below ground or concealed within the equipment.

(D) This section applies to a property owner's responsibilities and obligations associated with new development and new construction as above described and does not prohibit the maintenance, repair, alteration, or relocation, in the ordinary course of service of overhead electrical, telecommunications, and other wire systems existing on _____, 2021.

(1) This section does not in any way apply to high-voltage transmission lines.

(E) The Town Engineer may grant a variance from the requirement of placing vacant conduit systems for existing electrical utility feeder lines if one of the following circumstances exist:

(1) A proposed subdivision is a subdivision of an existing developed parcel and no additional building sites are being proposed; or

(2) The main feeder line under consideration is not located on a major street in the Town as denoted on the Town of Paradise General Plan/Circulation Element; or

(3) A majority of the frontage of the abutting property, 500 feet in either direction, has developed with the feeder system left overhead and no vacant conduit placed.

(F) The Town Engineer may also grant a variance from any requirement imposed pursuant to this section if, on the basis of the grounds asserted and the evidence submitted, the Town Engineer makes findings of fact that establish that one or both of the circumstances set forth below apply:

(1) That there are special circumstances applicable to the subject property such as perimeter dimension, topography, location or encumbrances provided by existing improvements that the strict interpretation of the requirements under this section would result in practical difficulties or unusual hardships inconsistent with the general purpose and intent of this chapter. The cost of undergrounding is normally not a special circumstance; or

(2) That the nature and extent of relocating or undergrounding of existing utility improvements, as required in this chapter, neither bears a reasonable relationship to the proposed use or uses of property nor improves the visual appearance of the general roadway area; and

In addition, the Town Engineer finds and determines, based on facts, that the granting of such a variance will not be materially detrimental to the public welfare or injurious to property in the same zone and vicinity in which the property is located.

Section 2. Adoption of this ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15302(d), which exempts undergrounding of utility systems and section 15308, which exempts actions to protect the environment.

Section 3. This ordinance shall take effect thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance or a summary thereof shall be published in a newspaper of general circulation published and circulated within the Town of Paradise along with the names of the members of the Town Council of Paradise voting for and against same.

PASSED AND ADOPTED BY THE Town Council of the Town of Paradise, County of Butte, State of California, on this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

Steve Crowder, Mayor

ATTEST:

DINA VOLENSKI, Town Clerk

APPROVED AS TO FORM:

MARK A HABIB, Town Attorney



Town of Paradise
Council Agenda Summary
Date: February 23, 2021

Agenda Item: 2(b)

ORIGINATED BY: Katie Simmons, Disaster Recovery Director
REVIEWED BY: Kevin Phillips, Town Manager
SUBJECT: Hazardous Tree Removal Urgency Ordinance Amendment

LONG TERM RECOVERY PLAN: Yes, Tier 1

COUNCIL ACTION REQUESTED:

1. Consider waiving the reading of entire Town of Paradise Urgency Ordinance No. ____ and Adopt Town of Paradise Urgency Ordinance No. ____, "An Urgency Ordinance of the Town Council of the Town of Paradise Repealing Urgency Ordinance No. 602 and Adopting New Ordinance Relating to Requirements of a Mandatory Hazard Tree Removal Program Inside the Camp Fire Area" (ROLL CALL VOTE)

Background:

On March 17, 2020, the Town Council adopted Urgency Ordinance No. 595 establishing the requirements of a mandatory Hazard Tree Removal Program. Abatement protocols were outlined at that time. Ordinance No. 595 was repealed and replaced by Ordinance No. 602 on December 16, 2020, which established Program deadlines.

Analysis:

Enrollment deadlines have passed in the Government Hazard Tree Removal Program and the Private Hazard Tree Removal Program. The "cut by" deadline of February 1, 2021, in the Private Program has also passed.

Subsequently, the Town is facing abatement on two categories of properties that do not comply with the urgency ordinance:

- (1) Properties enrolled in the Private Program who have failed inspection(s) by the "cut by" deadline;
- (2) Properties that have not enrolled in any program but have been found through roadside assessment(s) conducted by the Town's arborists to contain eligible hazardous trees.

Though abatement protocols were outlined in the first urgency ordinance, further research has been done by Town staff and Town attorneys to determine the best course of action given the volume of properties at risk of abatement.

Additional proposed abatement procedures are recommended at this time to:

- a) Give the appropriate and maximum due process to property owners;
- b) Establish the most conservative and legally defensible approach to protect the Town's

- interests;
- c) Provide consistency in abatement procedures between the Town and County for the benefit of utilizing shared services provided by agencies supporting hazardous tree removal.

Summary abatement procedures remain intact within the revised urgency ordinance relating to Hazard Trees that constitute an imminent threat to the public health for safety.

Financial Impact:

Abatement costs incurred will be reimbursable through the FEMA PA project at the prevailing cost share: 75% of the expenses related to the Private Hazard Tree Removal Program are reimbursable through FEMA Public Assistance, 18.75% by CAL OES and the remaining 6.25% is covered by the Town of Paradise.

TOWN OF PARADISE
ORDINANCE NO. ~~602~~ _____

AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PARADISE
REPEALING ORDINANCE NO. ~~595~~ 602 AND ADOPTING A NEW ORDINANCE
ESTABLISHING THE REQUIREMENTS OF A
MANDATORY HAZARD TREE REMOVAL PROGRAM

The Town Council of the Town of Paradise, State of California,
does **ORDAIN AS FOLLOWS:**

Section 1. Ordinance No. ~~595~~ 602 is repealed.

Section 2. The Town Council of the Town of Paradise, State of
California does ordain as follows: Emergency Findings. This Urgency
Ordinance is adopted pursuant to California Government Code Section
36934 and shall take effect immediately upon its approval by at
least a four-fifths vote of the Town Council. The Council finds
that this Ordinance is necessary for the immediate preservation of
the public peace, health and safety, based upon the following
facts:

- A. Conditions of extreme peril to the safety of persons and property
within the Town were caused by the Camp Fire, commencing on the
8th day of November, 2018, at which time the Town Council was
not in session.
- B. California Government Code Section 8630 et seq. empowers the
Town Director of Emergency Services (Director) to proclaim the
existence of a local emergency when the Town is affected or
likely to be affected by a public calamity, subject to
ratification by the Town Council at the earliest practicable
time.

1 C. On November 8, 2018, the Director (Town Manager) proclaimed the
2 existence of a local emergency within the Town of Paradise due
3 to the Camp Fire.

4 D. On November 8, 2018, the Acting Governor of the State of
5 California proclaimed a State of Emergency for Butte County
6 pursuant to the California Emergency Services Act, commencing
7 with Section 8550 of the Government Code, and on November 14,
8 2018, the Governor issued Executive Order B-57-18 concerning the
9 Camp Fire.

10 E. On November 9, 2018, the Camp Fire was still burning through the
11 Town and despite firefighters' best efforts, the wildfire was
12 not contained. Evacuation orders were in place and numerous
13 severe public health and safety hazards were present in the Camp
14 Fire area, including many blocked roads from fallen power lines,
15 burned trees and vehicles, numerous burned vehicles were left
16 throughout the Camp Fire area due to survivors fleeing their
17 vehicles in efforts to survive the wildfire, no available
18 utilities, no available public services and the presence of
19 human remains and animal carcasses. At the time, the County
20 estimated that 2,000 structures had burned in the Camp Fire.

21 F. On November 9, 2018, Dr. Andrew Miller, Butte County's Local
22 Health Officer, issued a Declaration of Health Emergency
23 pursuant to California Health and Safety Code section 101080.
24 Dr. Miller's declaration stated that the local health emergency
25 was a consequence of the debris resulting from the Camp Fire

1 that contains hazardous material in the ash of the burned
2 qualifying structures. The purpose of the Declaration was to
3 address the immediate threat to the public health and the
4 imminent and proximate threat of the introduction of contagious,
5 infectious or communicable disease, chemical agents, non-
6 communicable biologic agents, toxins and/or radioactive agents
7 present at the time in the Camp Fire area. The threats included
8 (1) the enormous amount of fire debris present in the Camp Fire
9 area, including ash and debris containing hazardous materials
10 and probable radioactive materials present in ash and debris
11 from qualifying structures, (2) the threat of infectious or
12 communicable disease and/or non-communicable biologic agents due
13 to animal carcasses, radioactive waste and perishable foods, (3)
14 the potential contamination or destruction of the residential
15 and commercial water supply in the Camp Fire area and (4) the
16 potential pollution of the drinking water downstream from the
17 Camp Fire area if weather conditions caused the spread of the
18 hazardous materials in the ash and debris of burned qualifying
19 structures.

20 G. On November 12, 2018, the President of the United States declared
21 the existence of a major disaster in the State of California,
22 providing assistance from many federal agencies, including the
23 Federal Emergency Management Agency (FEMA).

24 H. On November 13, 2018, the Town Council adopted Resolution No.
25 18-42 ratifying the Director's proclamation of the existence of

1 a local emergency in the Town. The resolution also requested
2 that the State of California waive regulations that may hinder
3 response and recovery efforts, as well as make available
4 assistance under the California Disaster Assistance Act or any
5 other state funding, and that the Federal Government expedite
6 access to federal resources and any other appropriate federal
7 disaster relief program.

8 I. On November 21, 2018, the status of the Camp Fire area was as
9 follows: firefighters had contained the Camp Fire; the Sheriff
10 had lifted some evacuation orders; work crews had removed fallen
11 power lines, burned vehicles and trees blocking the roads;
12 utilities including electric power, gas and non-potable water
13 had become available; no local businesses were open to serve the
14 public; and no public services were available. Further,
15 preliminary actions had been taken to mitigate the risk from
16 animal carcasses, radioactive waste and perishable foods in the
17 Camp Fire area, however, concerns regarding the threats
18 remained. The public health hazards present in the Camp Fire
19 area included (1) the public health hazards from the enormous
20 amount of fire debris, (2) the public health hazard from the
21 hazardous materials and probable radioactive materials present
22 in the ash and debris from destroyed qualifying structures, (3)
23 the threat of infectious or communicable disease and/or non-
24 communicable biologic agent due to the presence of animal
25 carcasses, perishable foods and radioactive waste and (4) the

1 potential pollution of the drinking water downstream from the
2 Camp Fire area if weather conditions caused the spread of the
3 hazardous materials in the ash and debris of burned qualifying
4 structures. At the time, the County of Butte estimated that the
5 Camp Fire had destroyed 18,000 structures.

6 J. On November 21, 2018, Dr. Miller issued a Hazard Advisory
7 strongly suggesting residents should not reside on property with
8 qualifying structures damaged or destroyed by the Camp Fire
9 until the property had been cleared of hazardous waste, ash and
10 debris and certified clean by the Department of Public Health,
11 Environmental Health Division. When the evacuation orders were
12 lifted, the Department of Public Health provided residents who
13 chose to visit their property to collect valuables with re-entry
14 packets to improve their safety during the visit. The re-entry
15 packets included personal protective equipment and information
16 on the dangerous conditions and toxic materials present in the
17 Camp Fire area. The re-entry packets were intended to improve
18 public safety from the public health hazards encountered during
19 the visit, but was not intended to encourage long-term
20 habitation. The purpose of the Hazard Advisory was to address
21 the public health hazards present at the time in the Camp Fire
22 area, including (1) the enormous amount of fire debris present
23 in the Camp Fire area, (2) the hazardous materials and probable
24 radioactive materials present in ash and debris from qualifying
25 structures, (3) the lessened but still present threat of

1 infectious or communicable disease and/or non-communicable
2 biologic agents due to animal carcasses, radioactive waste and
3 perishable foods, (4) the potential contamination or destruction
4 of the residential and commercial water supply in the Camp Fire
5 area and (5) the potential pollution of the drinking water
6 downstream from the Camp Fire area if weather conditions caused
7 the spread of the hazardous materials in the ash and debris of
8 burned qualifying structures.

9 K. The Camp Fire to date has consumed 153,336 acres and has led to
10 the destruction of 13,696 residences, damage to 462 residences,
11 the destruction of 276 multiple family residences, the
12 destruction of 528 commercial buildings, damage to 102
13 commercial buildings, the destruction of 4,293 other minor
14 structures, and resulted in the evacuation of over 50,000
15 people. As a result, the Camp Fire has created an enormous number
16 of dead or dying trees.

17 L. The Town is located in a Very High Fire Hazard Severity Zone as
18 shown on the California Department of Forestry and Fire
19 Protection's Fire and Resource Assessment Program map dated
20 November 7, 2007.

21 M. The Town generally has a climate conducive to wildfires and is
22 prone to periodic dry summers and wind events. Hazard trees pose
23 a significant danger to the health, safety and welfare of the
24 public by fueling and propelling wildfires, thereby increasing
25 the potential for a severe fire and endangering lives, property

1 and the environment. Increasingly dry summers and severe wind
2 events further exacerbate the fire danger and have the potential
3 to result in catastrophic fire losses to life, property and the
4 environment.

5 N. Additionally, the Camp Fire created a fuel type conversion
6 whereby the Ponderosa Pine and mixed conifer forests have now
7 been converted to predominantly open land with grass and brush
8 regrowth. The understory grass and brush can precipitate the
9 start and spread of fire with hundreds of thousands of dead
10 trees still standing, many of which are within the urban
11 interface, to further add to the fire threat and intensity.
12 Dead trees that fall on the forest floor over time further
13 complicate the fire environment by adding large down, dead fuel
14 that will add to surface fire intensity and make control efforts
15 difficult.

16 O. Dead and dying trees pose a life hazard to firefighters, first
17 responders and the general public if exposed to fire or high
18 wind storm events. Standing trees that are dead or dying and
19 are adjacent to roads have an increased risk of falling onto the
20 roads during a wildfire disaster or high wind storm event as
21 compared to healthy trees. This endangers primary and secondary
22 evacuation routes in the Camp Fire area, which could lead to
23 increased loss of life during a future fire.

24 P. Of paramount importance to the Town Council and the residents
25 of the Town is the protection of lives and property from the

1 threat of fire, including proper maintenance of evacuation
2 routes and the safety of fire and law enforcement personnel
3 during wildfires.

4 Q. Dead and dying trees suffer an increased risk of pest
5 infestation, such as bark beetles. When dead or dying trees are
6 infested with pests, this also exposes the healthy trees in
7 close proximity. The healthy trees are then endangered by the
8 pests, which potentially creates more fuel for future fires,
9 which increases the future fire risks in the Camp Fire area.

10 R. The Town estimates over 100,000 trees must be removed from
11 approximately 11,500 private parcels adjacent to eligible roads.

12 S. 100 percent of businesses in the burn area were shut down after
13 the Camp Fire. Approximately 150 out of the 1,200 businesses
14 reopened 6 months later. This number does not include all home-
15 based businesses that were displaced as a result of the
16 residential structure burning in the Camp Fire. The survival
17 of new and existing businesses depends primarily on the
18 restoration of the purchasing power in the community. The loss
19 of 10,000 homes in the Camp Fire area and the subsequent
20 displacement of the residents severely reduces the customers for
21 businesses that sell goods and services locally and the
22 workforce available for businesses that produce goods and
23 services for export out of the Town. The severe reduction in
24 population dramatically reduces the ability for businesses to
25

1 recover, including the ability to remain a viable business
2 interest in the community.

3 T. State law provides property tax relief to homeowners impacted
4 by a natural disaster by reducing their assessed value. This
5 process provides for the removal of the value of the damaged
6 structure effective as of the date of the disaster. The fiscal
7 year 2019-20 roll will reflect 12 months of reduced value as
8 well as additional reductions to land value which could not be
9 adjusted mid-year. Over 50 percent of property tax revenues
10 support schools while the remaining taxes provide revenue to
11 local jurisdictions and special districts to provide critical
12 local services. The Town receives about 20% of total property
13 tax revenues. The State of California has committed to
14 backfilling property taxes for three years to account for the
15 substantial reduction in revenue to these agencies. The only
16 way for this critical revenue source to recover is for homes and
17 structures to be rebuilt and property values, and therefore
18 property taxes, to increase. Property tax is the primary
19 discretionary revenue source for the Town.

20 U. The health of the communities and local economies largely
21 depends upon repopulation; repopulation largely depends upon the
22 mindset of the public and their sense of security moving back
23 to their land. For example, if evacuation routes continue to
24 suffer from falling trees, residents will not have confidence
25 in their ability to evacuate safely during a future fire, and

1 will choose not to rebuild in the Camp Fire area. Without that
2 sense of security, people are moving elsewhere - which
3 negatively impacts the economy recovery of the region - both the
4 commercial economy and the property tax base for the Town.

5 V. The Town has received information from a certified arborist and
6 tree health expert company that has assessed trees rooted in the
7 public rights-of-way for tree mortality risk rating. The
8 arborists have generated a report and forms memorializing the
9 tree mortality data at the time of field reconnaissance and
10 inventory efforts on May 1, 2019 through August 31, 2019. One
11 of the purposes of the field reconnaissance effort was to
12 identify, inventory, and assess the risk of trees rooted in the
13 public rights-of-way within the Town that:

- 14 • Were damaged by the Camp Fire;
- 15 • Have a diameter of six inches or greater measured 4.5 feet
16 above ground level;
- 17 • Pose an immediate threat to life, public health and safety,
18 as a result of threatening public rights-of-way;
- 19 • Meet one or more of the following criteria:
 - 20 1. Have a split trunk;
 - 21 2. Have a broken canopy; or
 - 22 3. Is leaning at an angle greater than 30 degrees;
 - 23 and

- Is determined, under the professional opinion of the arborist, that the tree is a hazard consistent with criteria set forth in ANSI A300 (Part 9) known as the Tree Risk Assessment Standard.

W. For those trees which met the defined criteria, the arborists employed the ISA's Tree Risk Assessment methods to assess a tree's risk ratings, which was based on the health of the tree and the tree's relation to public rights-of-way.

X. Field reconnaissance and inventory efforts have found approximately 4,700 trees which met the defined criteria.

Y. The arborists have recommended removal of all hazard trees which meet the defined criteria and are rooted along the Town's rights-of-way.

Z. It is the opinion of the Town Fire Chief that the unprecedented level of hazard trees presents the following risks to life, public health and safety: (1) the risks of injury and/or death to Town residents on eligible roads and parcels due to falling trees; and (2) the increased threat of catastrophic wildfire to the Camp Fire area and surrounding area.

AA. A purpose of this Ordinance is to establish a Hazard Tree abatement program that protects the lives and property of the public living in and traveling through the Town, and the environment.

BB. The Town Council finds that Hazard Trees pose a danger to the health, safety and welfare of the residents in the vicinity of

any real property located throughout the Town for the reasons set forth above. Therefore, all Hazard Trees located on real property within the Town are deemed a public nuisance and pose a hazard to the safety of the landowners, residents in the vicinity, users of roads and to the public generally.

CC. It is imperative that the Town implement immediate and aggressive measures to identify and fell the trees that are dead and dying as a result of the Camp Fire to immediately eliminate or reduce the risks to life, public health and safety, infrastructure, forest health and the community at large.

DD. The Town Council has the authority to take action to protect health, safety and welfare of the residents of the Town pursuant to its police powers granted by Article XI, Section 7 of the California Constitution.

EE. Hazard Trees as defined in Section 3.3 of this Ordinance include trees that:

- (1) are rooted on private property; and
- (2) threaten eligible roads or parcels in the Town; and
- (3) may cause physical injury or damage to persons or property creates a serious public health and safety crisis and therefore constitutes a public nuisance.

FF. It is essential that this Ordinance become immediately effective

- (1) to mitigate the harm that could be caused to the public health and safety and to the environment from the failure to remove Hazard Trees and to facilitate the orderly response to

the Camp Fire disaster; and (2) to allow the fastest possible transition of homeless and displaced residents to repopulate the Camp Fire area.

Section 3. MANDATORY GOVERNMENT HAZARD TREE REMOVAL PROGRAM,

is hereby added to read as follows:

Section 3.1. Hazard Tree Removal Program.

Any tree that was fire damaged in the Camp Fire and that is in imminent danger of falling onto an eligible road or parcel is a hazardous tree that must be removed to eliminate the imminent threat to the public at large. This Ordinance establishes a hazard tree removal program that is mandatory and sets forth the manner in which hazardous trees will be identified and removed.

Section 3.2. Effective Period.

Hazard Tree removal program shall take effect immediately upon adoption of this Ordinance and shall remain in effect until the removal of Hazard Trees has been completed.

Section 3.3 Definitions.

"Town Council." The term "Town Council" shall be defined as the Town Council of the Town of Paradise.

"Enforcement Officer." The term "Enforcement Officer" shall be defined as the Town Manager of the Town or his/her designee(s). Such designee(s) may be a Town employee(s) or third-party provider(s).

"Town." The term "Town" shall be defined as the Town of Paradise.

"Government Hazard Tree Removal Program." The term "Government Hazard Tree Removal Program" shall be defined as the Hazard Tree Removal

1 Program operated by the California Office of Emergency Services
2 (CalOES) for the Camp Fire area in conjunction with Butte County, the
3 Town of Paradise, and other state and federal agencies.

4 "Government Hazard Tree Removal Program." The term "Government
5 Hazard Tree Removal Program" shall be the Hazard Tree Removal
6 Program operated by the California Office of Emergency Services
7 (CalOES) for the Camp Fire area in conjunction with other state
8 and federal agencies.

9 "Government Hazard Tree Removal Program Right of Entry Permit." The
10 term "Government Hazard Tree Removal Program Right of Entry Permit"
11 shall be defined as the permit for providing Hazard Tree removal on
12 private property approved by CalOES for use in the cleanup after the
13 Camp Fire.

14 "Arborist." The term "Arborist" shall be defined as an ISA Certified
15 Arborist with a Tree Risk Assessment Qualification (TRAQ).

16 "Forester." The term "Forester" shall be defined as a Registered
17 Professional Forester, qualified pursuant to California Public
18 Resources Code section 752, "Professional Forester."

19 "Arborist's/Forester's Certification." The term
20 "Arborist's/Forester's Certification" shall be defined as a written
21 certification verifying that all Hazard Trees have been removed from
22 a parcel participating in the Private Tree Program. The certification
23 shall be made and executed by an Arborist and/or Forester as defined
24
25

in this Section. The Arborist or Forester shall provide evidence of the required qualifications of this Section.

"Eligible Road(s) or Parcel(s)." The term "Eligible Road(s) or Parcel(s)" shall be defined as a road, right-of-way or parcel included in one of the following categories:

(A) a public road or right-of-way;

(B) an improved public property; or

(C) a private road or right-of-way that:

(1) connects two public roads;

(2) is primarily used as a right-of-way to a public property; or

(3) was used for waste collection services.

Eligible Roads or Parcels are set forth in the map attached hereto as Exhibit A.

"Hazard Tree." The term "Hazard Tree" shall be defined as:

A wildfire-damaged tree that in the professional opinion of an arborist and/or forester:

A. has been so severely damaged by the Camp Fire that its structural integrity is compromised; and

B. poses an imminent danger of falling onto an eligible road or parcel.

For purposes of this Ordinance, "imminent danger" means the threat of additional damage or destruction from an event which can reasonably be expected to occur within five years.

1 A map reflecting eligible roads in the Town is attached hereto as
2 Exhibit A.

3 "Inspection Access Form." The term "Inspection Access Form" shall
4 be defined as the permit for providing access to the Enforcement
5 Officer to inspect private property of owners opting to use the
6 Private Hazard Tree Removal Program approved by the Town for use in
7 the cleanup after the Camp Fire.

8 "Private Hazard Tree Removal Program." The term "Private Hazard Tree
9 Removal Program" shall be defined as an alternative to the Government
10 Hazard Tree Removal Program, which provides the property owner with
11 the option of identifying and removing Hazard Tree(s) on their
12 property at their own cost.

13 **Section 3.4. Government Hazard Tree Removal Program.**

14 A. The Government Hazard Tree Removal Program was set up remove all
15 Hazard Trees at no out-of-pocket cost to the property owners
16 enrolled in that Program. If a property owner does/did not
17 participate in the Government Hazard Tree Removal Program, and
18 there are Hazard Trees on their property, the owners are required
19 to remove such trees at their own cost.

20 B. To participate in the Government Hazard Tree Removal Program,
21 property owners shall have completed and submitted a Government
22 Hazard Tree Removal Program Right of Entry Permit by not later
23 than December 31, 2020. The Government Hazard Tree Removal Program
24 Right of Entry Permit shall function as the sole permit and
25 authorization for participation in the Government Hazard Tree

Removal Program. Notwithstanding any contrary provision in Paradise Municipal Code, no Town approvals or permits for Hazard Tree removal shall be required for properties participating in the Government Hazard Tree Removal Program, other than the Government Hazard Tree Removal Program Right of Entry Permit.

C. If property owners whose property contains Hazard Trees do not participate in the Government Hazard Tree Removal Program (at no out-of-pocket cost to owner) or the Private Hazard Tree Removal Program (all costs paid by owner), the Town Council will enforce this and all other laws and Ordinances available to the Town in connection with the abatement of Hazard tree removals and charge the owners with any administrative and abatement costs related to such enforcement as described below.

D. In implementing this program, property owners who have applied for building permits shall be given priority in the Government Hazard Tree Removal Program.

Section 3.5. Public nuisance; violations.

Maintaining a Hazard Tree is prohibited and constitutes a public nuisance subject to this Ordinance. A violation of any provision of this Ordinance shall be deemed to be a public nuisance and subject to any enforcement process available at law.

Section 3.6. Purpose.

It is the intent of the Town Council that this Ordinance may apply to the abatement of Hazard Trees threatening eligible roads or parcels within the Town.

Section 3.7. Private Hazard Tree Removal Program.

A. As an alternative to the Government Hazard Tree Removal Program, the Private Hazard Tree Removal Program provided the property owner with the option of identifying and removing Hazard Tree(s) on their property at their own cost. To participate in the Private Hazard Tree Removal Program, a property owner shall have submitted either of (1) an Inspection Access Form or (2) an Arborist's/Forester's Certification for his or her property to the Butte County Right of Entry (ROE) Center by not later than February 1, 2021. Following the property owner's identification and removal of Hazard Trees and submittal of an Inspection Access Form, the Private Hazard Tree Removal Program shall require the Enforcement Officer to make a visual confirmation of the removal of the Hazard Trees on the subject property. This visual inspection of compliance with the Private Hazard Tree Removal Program shall be sufficient for meeting the requirements of this Section. Whether the Hazard Tree removal is adequate shall be in the sole discretion of the Enforcement Officer. In the alternative, a submittal of a licensed Arborist's/Forester's Certification from the property owner shall be sufficient for meeting the requirements of this Section.

B. Notwithstanding anything herein to the contrary, in the Private Tree Program, owners may choose to temporarily retain and process felled Hazard Trees which were standing on their property. This

temporary retention and utilization by the owner shall be permitted only to the extent felled Hazard Trees and incidental foliage, slash, tree branches or limbs and chipped or mulched vegetation do not constitute a fire hazard as prohibited by applicable law, including but not limited to California Public Resources Code section 4291 et seq., Title 19 of the California Code of Regulations and Chapter 15.09 of the Paradise Municipal Code. Such requirements include but are not limited to the following:

(1) In storing such Hazard Trees prior to utilization, an owner shall be required to:

(a) maintain a setback of no less than 100 feet from any inhabited building or structure;

(b) maintain a setback of no less than 30 feet from any uninhabited building or structure; and

(c) maintain a setback around the parcel's property lines of no less than 30 feet wide.

(2) If an owner utilizes felled Hazard Trees for wood chips, the owner shall be required to spread the wood chips to a depth of no greater than 3 inches while maintaining a setback of no less than 5 feet from any building or structure.

(3) If owner utilizes felled Hazard Trees for firewood, the owner shall be required to cut and neatly stack firewood that is ready for use in standard size wood stove or fireplace while maintaining a setback of no less than 10 feet from any building or structure.

1 If any temporary retention and utilization of Hazard Trees
2 constitutes a fire hazard, it is a public nuisance and may be
3 abated using any available legal remedy. If the owner chooses to
4 temporarily retain and process the felled Hazard Trees, the owner
5 is required to utilize such Hazard Trees prior to the Enforcing
6 Officer's visit to the property to confirm compliance with the
7 Private Tree Program.

8 For the purposes of this section, any temporary retention and
9 utilization of felled Hazard Trees by the property owner is not a
10 Temporary Log Storage Yard (AKA: Log Deck) as described in Chapter
11 15.09 of the Paradise Municipal Code. Owners may not receive felled
12 trees from other properties.

13 C. The County and the Town shall utilize the state and federal
14 standards and cleanup goals of the Government Hazard Tree Removal
15 Program as the standards for the Private Hazard Tree Removal
16 Program, including but not limited to the criteria for determining
17 whether a tree is a Hazard Tree. Under the supervision of the
18 Enforcement Officer, the Town may administratively update these
19 standards as necessary to address ongoing changes in the
20 administration of the Government Hazard Tree Removal Program and
21 the need to efficiently remove Hazard Trees from the community.

22 **Section 3.8 Temporary Uses Associated with Hazard Tree Removal**

23 A. Notwithstanding any other provision of the Paradise Municipal
24 Code, during the duration of this urgency ordinance, when
25 directly associated with a hazard tree removal program authorized

1 by this ordinance, the Town Planning Director is empowered to
2 grant a temporary use permit to authorize or conditionally
3 authorize the following land use within all zones except for the
4 agricultural-residential, rural-residential, and town-residential
5 zones;

6 (1) General vehicle/equipment storage as defined in Paradise
7 municipal Code Section 17.04.500 not to include any
8 tree/vegetation processing activities.

9 B. The Planning Director may authorize such temporary storage use
10 based on substantial evidence that:

11 (1) The temporary storage use shall not adversely impact the
12 public health, safety, or convenience or create undue traffic
13 hazards or congestion.

14 (2) The temporary storage use shall not adversely interfere
15 with the permitted use other land uses and activities on the site
16 or in the general vicinity.

17 (3) The temporary storage use shall be conducted in a manner
18 compatible with the land uses in the general vicinity.

19 C. The Planning Director may establish such additional conditions
20 as necessary to ensure land use compatibility and to minimize
21 potential negative impacts, including but not limited to hours and
22 frequency of operation, temporary arrangements for parking and
23 circulation, requirements for screening or enclosure, and
24 guarantees for site restoration and cleanup following the temporary
25 storage use.

Section 3.9. Town Development Permits.

No application for a Town Development permit with Hazard Trees shall be considered complete until the applicant has entered into a Government Hazard Tree Removal Program or a Private Hazard Tree Removal Program. This Section shall not apply to permits relating to power, sewer or other utilities for temporary dwellings.

Section 3.10. Deadlines and Enforcement.

A. Properties that contain Hazard Trees and that do not have either (1) an approved Government Hazard Tree Removal Program Right of Entry Permit; or, (2) an approved Inspection Access Form for the Private Hazard Tree Removal Program; or (3) an approved Arborist's/Forester's Certification by the deadline set by the Town Council, are declared a public nuisance and health hazard and such properties may be abated pursuant to this Ordinance.

B. The Town Council may set a deadline for the completion of Hazard Tree removal by resolution. Properties that have Hazard Trees after that deadline are declared a public nuisance and health hazard and such properties may be abated pursuant to this Ordinance.

The Town Council's intent is to facilitate orderly remediation of a large-scale disaster. Nothing in these deadlines shall limit the authority of the Town to abate hazards more quickly where required by exigent circumstances.

Section 3.11. Enforcement.

1 A. Whenever the Enforcement Officer determines that a public
2 nuisance (as specified in this Ordinance) exists, he or she may
3 use any legal remedies available under California law and this
4 Ordinance to address and abate the public nuisance, including
5 but not limited to the abatement procedures set forth in Section
6 ~~3.12~~ 3.14 of this Ordinance.

7 B. The Town may, in its sole discretion, abate a violation of this
8 Ordinance by the prosecution of a civil action, including an
9 action for injunctive relief, without first going through the
10 administrative procedures set forth herein. The remedy of
11 injunctive relief may take the form of a court order,
12 enforceable through civil contempt proceedings, prohibiting the
13 maintenance of a violation of this Ordinance, or requiring
14 compliance with other terms.

15 C. If a public nuisance is found to be present on the property in
16 violation of this Ordinance, (1) The Town may also abate a
17 violation of this Ordinance through the abatement process
18 established by this Ordinance or by Government Code Sections
19 38773 and 38773.5; (2) the Enforcement Officer shall pursue
20 payment for Abatement and Administrative Costs from the owner
21 and the owner of the property shall be responsible for paying
22 all of the Town's Abatement Costs and Administrative Costs.

23 **Section 3.12 Burden of Proof of Public Nuisance.**

24 **A. When an owner maintains a Hazard Tree on his or her property that is deemed to be**
25 **a public nuisance pursuant to this Ordinance, the burden of proof shall rest with the**

Enforcement Officer making the allegation or determination and shall be based on a preponderance of the evidence as follows:

Evidence supporting an allegation of the existence of a public nuisance as described in this Ordinance shall demonstrate that (1) the property has one or more Hazard Trees on the property and (2) the property owner (i) has not entered into the Government Hazard Tree Removal Program or Private Tree Program or (ii) has not complied with the requirements of the Government Hazard Tree Removal Program or Private Tree Program.

B. Abatement of Public Nuisance: Abatement of a condition or circumstance that is alleged to be a public nuisance shall be encouraged to be on a voluntary basis on the part of the violator or, when necessary, performed by official action.

3.13 Duty.

No person or entity shall cause, permit, maintain, conduct or otherwise allow a public nuisance as defined in this Ordinance to exist within the Town limits. It shall be the duty of every owner, occupant, and person that controls any land or interest therein within the Town limits to remove, abate and prevent the reoccurrence of the public nuisance upon such land.

3.14 Abatement procedure.

A. Whenever the Enforcement Officer determines that a public nuisance pursuant to this Ordinance exists, he or she shall request in writing that the public nuisance be abated within fifteen (15) days. If the condition(s) continue beyond that fifteen (15) day period, the Enforcement Officer may set the matter for hearing. If the matter is set for hearing, the 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 to be the owners of the property at least ten (10) days prior to the hearing. The Notice of Hazard Tree Nuisance Abatement Hearing shall inform the owner(s) of the basis for the violation and explain that to prevent the accrual of additional costs, the owner(s) must contact the Enforcement Officer and arrange a time for the Enforcement Officer to inspect the

property, and confirm that the violation(s) have been corrected. Both the mailed and posted notice shall be in substantially the following form:

NOTICE OF HAZARD TREE NUISANCE ABATEMENT HEARING

The owner(s) and occupant(s) of real property described on the latest equalized Butte County tax roll as A.P. No. _____ and having a street address of _____ is (are) hereby notified to appear before a Hearing Officer of the Town of Paradise at _____ on _____, 20__, at the hour of ____ o'clock ____ m., to show cause, if any there be, why the use of said real property should not be found to be a public nuisance and abated pursuant to Town Ordinance No. _____. The Enforcement Officer for the Hazard Tree Removal Program has determined that conditions exist on the above property which constitute a public nuisance and violate this Ordinance as follows: _____. At the conclusion of the hearing, if a violation is found to have existed at the time the Notice of Hazard Tree Nuisance Abatement Hearing was posted on the property, the cost of abating such violation, including, but not limited to, the cost of the Hearing Officer, the cost of prior time and expenses associated with bringing the matter to hearing, the cost of judicially abating the violation, the cost of labor and material necessary to physically abate the violation, and the cost of securing expert and other witnesses may become a lien against the subject property. If an abatement lien is recorded, it will have the same force and effect as an abstract of judgment which is recorded as a money judgment obtained in a court of law. If you fail to appear at the hearing or if you fail to raise any defense or assert any relevant point at the time of hearing, the Town will assert, in later judicial proceedings to enforce an order of abatement, that you have waived all rights to assert such defenses or such points.

In preparing for such hearing, you should be aware that if an initial showing is made by the Town, sufficient to persuade the Hearing Officer that a public nuisance existed on your property at the time the Notice of Hazard Tree Nuisance Abatement Hearing was posted on the property, you will then have the burden of proving that no public nuisance exists on your property. Therefore, you should be prepared to introduce oral and documentary evidence at the hearing proving why, in your opinion, your use of the property is not a public nuisance as defined in Ordinance No. _____.

1 If an initial showing sufficient to persuade the Hearing Officer that a public nuisance
2 existed on your property is made by the Town, your failure to sustain the burden of
3 showing that no public nuisance existed on the property may result in a decision by the
4 Hearing Officer that a public nuisance did exist, an order to abate the nuisance (which
5 may also result in a later judicial order with the same effect) and that the Town is entitled
6 to recover its Administrative Costs.

7 Further, if the Hearing Officer finds that a public nuisance continues to exist on
8 your property and you fail to abate the nuisance promptly, the Town may abate the
9 nuisance. If the Town abates the nuisance, you may be responsible for the actual costs
10 of the abatement, including the costs to the Town of the administrative hearing, and such
11 costs may be placed as a lien against your property by the Town.

12 Finally, if the Hearing Officer finds that a public nuisance existed or exists on your
13 property in violation of Ordinance No. ____, the Town will contend that you are bound by
14 such finding at any subsequent judicial action to enforce the Hearing Officer's order.

15 IMPORTANT: READ THIS NOTICE CAREFULLY. FAILURE TO APPEAR AND
16 RESPOND TO THE TIME SET FORTH IN THIS NOTICE WILL LIKELY RESULT IN
17 ADMINISTRATIVE AND/OR JUDICIAL ABATEMENT AND TERMINATION OF USES
18 OF OR CONDITIONS ON YOUR PROPERTY WHICH THE ENFORCEMENT OFFICER
19 CONTENDS ARE IN VIOLATION OF ORDINANCE NO. _____. TO PREVENT THE
20 ACCRUAL OF ADDITIONAL COSTS, YOU MUST CONTACT THE ENFORCEMENT
21 OFFICER AND ARRANGE A TIME FOR THE ENFORCEMENT OFFICER TO INSPECT
22 YOUR PROPERTY AND CONFIRM THAT THE VIOLATION(S) HAVE BEEN
23 CORRECTED.

24 Dated: _____

25 CAMP FIRE RECOVERY – HAZARD TREE REMOVAL
ENFORCEMENT OFFICER

By: _____

B. All hearings conducted under this Ordinance shall be held before a Hearing Officer
designated by the Town.

C. At the time and place set for the hearing, the Hearing Officer shall review the
Enforcement Officer's decision ordering cessation of the alleged public nuisance to

determine whether such decision conforms to law and is supported by substantial evidence. The Hearing Officer shall hear testimony and receive written and/or documentary evidence relating to the alleged violation. The Hearing Officer shall tape record the hearing or engage the services of a certified court reporter to record the hearing and shall preserve the record of the hearing and all photographs and demonstrative and documentary evidence introduced at the time of the hearing for a period of three (3) years.

D. Within five (5) 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 Hazard Tree Nuisance Abatement Hearing was posted, the decision shall include a statement of the Abatement and Administrative Costs incurred by the Town or estimated costs to abate the violation and 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 ten (10) days. The decision shall contain findings of fact and conclusions of law. A copy of the decision shall be mailed by certified mail, return receipt requested, to the person or persons shown on the last County tax roll to be the owners of the property which is the subject of the hearing and the occupant of such property, if any. All other persons noticed pursuant to this section shall be mailed a copy of the decision by first class mail, postage prepaid.

E. The decision of the Hearing Officer shall be final on the date the certified mail set forth in subsection (d) above, is deposited in the mail. The Hearing Officer shall notify the Town Clerk of his or her decision and the date upon which the decision became final. If it is the decision of the Hearing Officer that a public nuisance existed at the time the Notice of Hazard Tree Nuisance Abatement Hearing was posted, the owner of the property shall be responsible or paying all of the Town's Abatement Costs and Administrative Costs, including but not limited to, those cost items set forth in the notice required by subsection (a) above.

F. Notwithstanding any other provisions of this Ordinance, if a final decision of the Hearing Officer finds that a violation existed at the time the Notice of Hazard Tree Nuisance Abatement Hearing was posted and the public nuisance is not voluntarily abated with the time prescribed, the Enforcement Officer may abate the public nuisance pursuant to a warrant issued by a court of competent jurisdiction. The owner of the

property shall be responsible for paying all of the Town's Abatement Costs and Administrative Costs, including but not limited to, those cost items set forth in the notice required by subsection (a) above. The Enforcement Officer shall keep an accounting of the Abatement and Administrative Costs to perform each abatement. Upon completion of the abatement, the Enforcement Officer 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 Town's Abatement and Administrative Costs. The bill shall also state that failure to pay the Abatement and Administrative Costs within fifteen (15) days from service of the bill may result in the recording of a lien against the property.

If the Town's Abatement and Administrative Costs are not paid within fifteen (15) days from service of the bill, the Enforcement Officer shall render an itemized report to the Town Clerk for submittal to the Town Council for hearing and consideration regarding the proposed lien. The report shall include the names and addresses of the owners of record and any persons known to be in possession of the property. The report shall also include the date the abatement was ordered, the work performed, the date the abatement was completed, a description of the property subject to the lien, and an itemized account of the Town's Abatement and Administrative Costs. At least fifteen (15) days prior to the hearing, the Town Clerk shall give notice, with an affidavit of service, of the hearing to all persons named in the Enforcement Officer's report and the Enforcement Officer 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. The notice shall also contain a statement that the Town Council will hear and consider objections and protests to the proposed lien at the designated time and place.

K. At the time and place fixed in the notice, the Town Council shall hear and consider the proposed lien with objections and protests thereto. At the conclusion of the hearing, the Town Council may make such modifications and revisions to the proposed lien as it deems just and may order that the proposed lien be recorded by the Enforcement Officer. The lien shall have the same force, priority and effect as a judgment lien.

L. The notice of abatement lien shall, at a minimum, identify the record owner or possessor of the property, set forth the date upon which abatement of the nuisance was ordered or deemed ordered by the Town, describe the real property subject to the lien,

1 set forth the amount of the Town's Abatement Costs and Administrative Costs incurred
2 to date and, if applicable, the date upon which the abatement was completed. If the
3 abatement has not yet been completed, the notice shall so state and shall also indicate
4 that the lien is a partial lien and that additional Abatement Costs will be incurred in the
future.

5 It is the intent of the Town Council that Abatement Costs and Administrative Costs
6 incurred after the filing of the notice of abatement lien relate back to the date upon which
7 the lien was recorded for purposes of priority; however, in order to preserve its rights,
8 after all Abatement Costs and Administrative Costs have been incurred and the
9 abatement is complete, the Enforcement Officer shall cause a supplemental notice of
10 abatement lien to be recorded. The supplemental notice shall contain all of the
information required for the original notice and shall also refer to the recordation date and
the recorder's document number of the original notice.

11 M. The decision of the Hearing Officer or the Town Council may be recorded by the
12 Enforcement Officer. In the event of such recordation and in the further event that the
13 violation is corrected, a notice of such correction shall be recorded. The Enforcement
14 Officer is authorized to prepare and record a notice of correction. Correction of the
15 violation shall not excuse the property owner's liability for the costs incurred during the
16 administrative abatement process (Abatement Costs and Administrative Costs as defined
17 in this Ordinance). If the property owner has not fully compensated the Town for costs
18 incurred during the administrative abatement process, a notice of correction shall not be
19 recorded unless all fees specified in this Ordinance have been paid. Payment of the fees
20 specified in this Ordinance does not excuse the property owner's liability for costs incurred
21 during the administrative abatement process (Abatement Costs and Administrative Costs
22 as defined in this Ordinance).

23 N. The Town may, in its discretion, commence a judicial action to enjoin a violation of
24 this Ordinance without the necessity of first going through the administrative procedures
25 set forth herein.

Section 3.15 Non-exclusive remedy.

This Ordinance is cumulative to all other remedies now or hereafter
available to abate or otherwise regulate or prevent public nuisances.

The Town Attorney is authorized to initiate judicial enforcement as to a violation of any provision of this Ordinance without further Town Council approval.

Section 3.16 Summary abatement.

Notwithstanding any other provision of this Ordinance, when any Hazard Tree constitutes an imminent threat to the public health or safety based on substantial evidence from an arborist, and where alternate procedures would not result in abatement of that public nuisance within a short enough time period to avoid that threat, the Enforcement Officer may direct any officer or employee of the Town or third-party provider to summarily abate the public nuisance. The Enforcement Officer shall make reasonable efforts to notify the property owner of the property, but the formal notice and hearing procedures set forth in this Ordinance shall not apply. No summary abatement shall occur prior to consultation with the Town Attorney and the issuance of a court search and abatement warrant. The Town may nevertheless recover its costs for abating that public nuisance in the manner set forth in this Ordinance.

Section 4. CEQA Exemption.

Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code section 21080(b)(3) regarding projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a declared disaster and Section 21080(b)(4) regarding actions to mitigate or prevent an emergency,

1 and CEQA Guidelines Section 15269(a) regarding maintaining,
2 repairing, restoring, demolishing, or replacing property or
3 facilities damages or destroyed as a result of a disaster-stricken
4 area in which a state of emergency has been proclaimed by the Governor
5 pursuant to the California Emergency Services Act, commencing with
6 Section 8550 of the California Government Code.

7 Section 5. Severability.

8 If any section, subsection, sentence, clause, or phrase of this
9 Ordinance is for any reason held to be unconstitutional or invalid,
10 such decision shall not affect the validity of the remaining portion
11 of this Ordinance. The Town Council hereby declares that it would
12 have passed this Ordinance and every section, subsection, sentence,
13 clause or phrase thereof irrespective of the fact that any one or
14 more sections, subsections, sentences, clauses or phrases be declared
15 unconstitutional or invalid.

16 Section 6. Effective Date and Publication.

17 This Ordinance shall be and the same is hereby declared to be in full
18 force and effect immediately upon its passage by a four-fifths (4/5)
19 or greater vote. The Town Clerk is authorized and directed to publish
20 a summary of this Ordinance before the expiration of fifteen (15)
21 days after its passage. This Ordinance shall be published once, with
22 the names of the members of the Town Council voting for and against
23 it, in a newspaper of general circulation published in the Town of
24 Paradise, State of California. A complete copy of this Ordinance is
25 on file with the Town Clerk and is available for public inspection

and copying during regular business hours in the office of the Town Clerk, 5555 Skyway, Paradise, California.

PASSED AND ADOPTED BY THE Town Council of the Town of Paradise, County of Butte, State of California, on this ____ day of _____ 2021, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

Steve Crowder, Mayor

ATTEST:

APPROVED AS TO FORM:

DINA VOLENSKI, CMC, Town Clerk

MARK A. HABIB, Town Attorney



Town of Paradise
Council Agenda Summary
Date: February 23, 2021

Agenda Item: 2(c)

ORIGINATED BY: Tony Lindsey, Community Development Director –
Building & Code Enforcement

REVIEWED BY: Kevin Phillips, Town Manager

SUBJECT: Consider authorizing a proposed update to the
Building/Onsite Staff and Salary Pay Plan Schedule,
including updating salary pay plan and position control.

**LONG TERM
RECOVERY PLAN:** N/A

COUNCIL ACTION REQUESTED:

1. Approve the salary schedule for part-time/hourly Building/Onsite Inspector I and Building/Onsite Inspector II positions effective February 23, 2021; **AND**
2. Authorize the addition of up to four (4) less than half-time, part-time/hourly Building/Onsite Inspector I and Building/Onsite Inspector II positions to the FY 2020/21 salary pay plan and position control effective February 23, 2021.
3. Authorize the addition of a 25 hour per week, part-time Building/Onsite Inspector I position effective February 23, 2021.

Background:

Pre-Camp Fire, the Town's private development demand required minimum operational staffing levels. Post-Camp Fire, the rebuilding effort far exceeded the Town's minimum staffing levels, requiring the utilization of contracted consultants. Staff augmentation supplied a ready-to-go workforce, which was essential to keep pace with the increased demand. Building activity continues to outpace prior years and is forecasted to continue. With this in mind, staff recommends that we consciously rebuild the Town organization with direct hires to meet minimum operational staffing needs of the Division and community. Initially, this request is to add the most flexible staffed positions noted above.

Analysis:

The Town Building Division will continue staff augmentation with contracted consultants to meet the needs of the building industry. The Town will continue to explore opportunities to maintain

continuity of services through the peaks and valleys. A flexible part-time staffing model allows the Town to utilize experienced people who may be retired from other jurisdictions or not seeking full-time employment with the required knowledge. At the mid-year budget adjustment, Council approved the request to allocate funds to part-time/hourly staff. This action is an addendum item to amend the salary pay plan and position control to reflect those positions accordingly.

Financial Impact:

For the remainder of the 2020/21 FY, \$30,000 was budgeted for part-time/hourly staff which was approved at the February 9, 2021 Town Council meeting. An additional \$9,000 of allocated expenses can be reimbursed from designated 2015 CDBG funds through the Business & Housing Dept.

Attachments:

Exhibit A - Building/Onsite Inspector I/II Salary Plan

EXHIBIT A

TOWN OF PARADISE SALARY PAY PLAN FY 2020/21

2/23/2021

Head Count	Auth FTE's	Budget FTE	Position Title	Hours/Week	A Step	B Step	C Step	D Step	E Step	F Step
1.00	0.63	0.40	BUILDING/ONSITE INSPECTOR I (Part-time)							
			HOURLY	25	26.65	27.98	29.38	30.85	32.39	34.01
			BIWEEKLY							
		50			1,332.50	1,399.00	1,469.00	1,542.50	1,619.50	1,700.50
			MONTHLY							
		108			2,886.99	3,031.07	3,182.74	3,341.98	3,508.81	3,684.30
			ANNUAL							
		1,300			34,645.00	36,374.00	38,194.00	40,105.00	42,107.00	44,213.00
2.00	0.45	0.50	BUILDING/ONSITE INSPECTOR I (Less than half-time, Part-time/Hourly)							
			HOURLY	18	26.65	27.98	29.38	30.85	32.39	34.01
2.00	0.45	0.50	BUILDING/ONSITE INSPECTOR II (Less than half-time, Part-time/Hourly)							
				18	29.42	30.89	32.43	34.05	35.75	37.54