

**TOWN OF PARADISE  
ORDINANCE NO. 604  
AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PARADISE  
REPEALING ORDINANCE NO. 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 Ordinance No. 602 is repealed.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

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

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

H. On November 13, 2018, the Town Council adopted Resolution No. 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

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

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

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

P. Of paramount importance to the Town Council and the residents 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
  - 24
  - 25

- 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 3.14 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:

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**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: \_\_\_\_\_

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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 within 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

1 property shall be responsible for paying all of the Town's Abatement Costs and  
2 Administrative Costs, including but not limited to, those cost items set forth in the notice  
3 required by subsection (a) above. The Enforcement Officer shall keep an accounting of  
4 the Abatement and Administrative Costs to perform each abatement. Upon completion  
5 of the abatement, the Enforcement Officer shall post the property and send a bill to the  
6 owner, and any persons known to be in possession of the property, requesting payment  
7 of the Town's Abatement and Administrative Costs. The bill shall also state that failure  
8 to pay the Abatement and Administrative Costs within fifteen (15) days from service of  
9 the bill may result in the recording of a lien against the property.

10 If the Town's Abatement and Administrative Costs are not paid within fifteen (15)  
11 days from service of the bill, the Enforcement Officer shall render an itemized report to  
12 the Town Clerk for submittal to the Town Council for hearing and consideration regarding  
13 the proposed lien. The report shall include the names and addresses of the owners of  
14 record and any persons known to be in possession of the property. The report shall also  
15 include the date the abatement was ordered, the work performed, the date the abatement  
16 was completed, a description of the property subject to the lien, and an itemized account  
17 of the Town's Abatement and Administrative Costs. At least fifteen (15) days prior to the  
18 hearing, the Town Clerk shall give notice, with an affidavit of service, of the hearing to all  
19 persons named in the Enforcement Officer's report and the Enforcement Officer shall post  
20 the property with a copy of the notice. The notice shall describe the property by  
21 assessor's parcel number and street number or other description sufficient to enable  
22 identification of the property and contain a statement of the amount of the proposed lien.  
23 The notice shall also contain a statement that the Town Council will hear and consider  
24 objections and protests to the proposed lien at the designated time and place.

25 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  
specified in this Ordinance does not excuse the property owner's liability for costs incurred  
during the administrative abatement process (Abatement Costs and Administrative Costs  
as defined in this Ordinance).

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

23 **Section 3.15 Non-exclusive remedy.**

24 This Ordinance is cumulative to all other remedies now or hereafter  
25 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 23rd day of February 2021, by the following vote:

AYES: Greg Bolin, Steve "Woody" Culleton, Jody Jones  
Rose Tryon and Steve Crowder, Mayor

NOES: None

ABSENT: None

NOT VOTING: None

\_\_\_\_\_/s/\_\_\_\_\_  
Steve Crowder, Mayor

ATTEST: APPROVED AS TO FORM:

\_\_\_\_\_/s/\_\_\_\_\_  
DINA VOLENSKI, CMC, Town Clerk

\_\_\_\_\_/s/\_\_\_\_\_  
MARK A. HABIB, Town Attorney