Ordinance No. 4171

AN ORDINANCE OF THE COUNTY OF BUTTE ADDING ARTICLE V, ENTITLED
“HAZARD TREE REMOVAL,” OF CHAPTER 53, ENTITLED “CAMP FIRE DISASTER
RECOVERY ORDINANCE,” TO ESTABLISH REQUIREMENTS OF A MANDATORY
HAZARD TREE REMOVAL PROGRAM

The Board of Supervisors of the County of Butte ordains as
follows:

Section 1. Emergency Findings. This Urgency Ordinance is adopted
pursuant to California Government Code Sections 25123(d) and 25131
and shall take effect immediately upon its approval by at least a
four-fifths vote of the Board of Supervisors. The Board, in
consultation with the Local Health Officer, 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 County were caused by the Camp Fire, commencing on
the 8th day of November, 2018, at which time the Board of
Supervisors was not in session.

B. California Government Code Section 8630 empowers the County
Administrator to proclaim the existence of a local emergency
when the county is affected or likely to be affected by a public
calamity, subject to ratification by the Board of Supervisors
at the earliest practicable time.
C. On November 8, 2018, the County Administrator of the County of Butte proclaimed the existence of a local emergency within Butte County due to the Camp Fire.

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

E. On November 9, 2018, the Camp Fire was still burning through the County and despite firefighters’ best efforts, the wildfire was not contained. 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 lines, burned trees and vehicles, numerous burned vehicles were left throughout the Camp Fire area due to survivors fleeing their vehicles in efforts to survive the wildfire, no available utilities, no available public services and the presence of human remains and animal carcasses. At the time, the County estimated that 2,000 structures had burned in the Camp Fire.

F. On November 9, 2018, Dr. Andrew Miller, Butte County’s Local Health Officer, issued a Declaration of Health Emergency pursuant to California Health and Safety Code section 101080. Dr. Miller’s declaration stated that the local health emergency 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 Board of Supervisors adopted Resolution No. 18-169 ratifying the County Administrator’s
proclamation of the existence of a local emergency in Butte County. The resolution also requested that the State of California waive regulations that may hinder response and recovery efforts, as well as make available assistance under the California Disaster Assistance Act or any other state funding, and that the Federal Government expedite access to federal resources and any other appropriate federal disaster relief program.

I. On November 13, 2018, the Board of Supervisors ratified Dr. Miller’s Declaration of Health Emergency.

J. On November 21, 2018, the status of the Camp Fire area was as follows: firefighters had contained the Camp Fire; the Sheriff had lifted some evacuation orders; work crews had removed fallen power lines, burned vehicles and trees blocking the roads; utilities including electric power, gas and non-potable water had become available; no local businesses were open to serve the public; and no public services were available. Further, preliminary actions had been taken to mitigate the risk from animal carcasses, radioactive waste and perishable foods in the Camp Fire area, however, concerns regarding the threats remained. The public health hazards present in the Camp Fire area included (1) the public health hazards from the enormous amount of fire debris, (2) the public health hazard from the hazardous materials and probable radioactive materials present in the ash and debris from destroyed qualifying structures, (3)
the threat of infectious or communicable disease and/or non-
communicable biologic agent due to the presence of animal
carcasses, perishable foods and radioactive waste 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. At the time, the County estimated that the Camp Fire
had destroyed 18,000 structures.

K. On November 21, 2018, Dr. Miller issued a Hazard Advisory
strongly suggesting residents should not reside on property with
qualifying structures damaged or destroyed by the Camp Fire
until the property had been cleared of hazardous waste, ash and
debris and certified clean by the Department of Public Health,
Environmental Health Division. When the evacuation orders were
lifted, the Department of Public Health provided residents who
chose to visit their property to collect valuables with re-entry
packets to improve their safety during the visit. The re-entry
packets included personal protective equipment and information
on the dangerous conditions and toxic materials present in the
Camp Fire area. The re-entry packets were intended to improve
public safety from the public health hazards encountered during
the visit, but was not intended to encourage long-term
habitation. The purpose of the Hazard Advisory was to address
the public health hazards present at the time in the Camp Fire
area, including (1) the enormous amount of fire debris present
in the Camp Fire area, (2) the hazardous materials and probable
radioactive materials present in ash and debris from qualifying
structures, (3) the lessened but still present threat of
infectious or communicable disease and/or non-communicable
biologic agents due to animal carcasses, radioactive waste and
perishable foods, (4) the potential contamination or destruction
of the residential and commercial water supply in the Camp Fire
area and (5) 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.

L. The Camp Fire to date has consumed 153,336 acres and has led to
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. As a result, the Camp Fire has created an enormous amount
of debris.

M. There exists the potential for widespread toxic exposures and
threats to public health and the environment in the aftermath
of a major wildfire disaster, and debris and ash from residential
and commercial structure fires contain hazardous materials and
the harmful health effects of hazardous materials produced by a
wildfire are well-documented.
The combustion of building materials such as siding, roofing tiles, and insulation results in dangerous ash that may contain asbestos, heavy metals and other hazardous materials. Household hazardous waste such as paint, gasoline, cleaning products, pesticides, compressed gas cylinders, and chemicals may have been stored in homes, garages, or sheds that may have burned in the fire, also producing hazardous materials.

Exposure to hazardous materials may lead to acute and chronic health effects and may cause long-term public health and environmental impacts. Uncontrolled hazardous materials and debris pose significant threats to public health through inhalation of dust particles and contamination of drinking water supplies. Improper handling can expose residents and workers to toxic materials, and improper transport and disposal of fire debris can spread hazardous substances throughout the community.

Standards and removal procedures are needed immediately to protect the public health and environment, and to facilitate coordinated and effective mitigation of the risks to the public health and environment from the health hazards generated by the Camp Fire disaster.

The Camp Fire has created hazardous waste conditions in Butte County in the form of contaminated debris from household hazardous waste/materials and structural debris resulting from the destruction of thousands of structures. This hazardous waste debris poses a substantial present or potential hazard to human
health and the environment until the property is certified clean. The accumulated exposure to hazardous waste debris over an extended period of time poses a severe hazard to human health.

R. The Board of Supervisors previously approved urgency ordinances and/or related resolutions relating to the Camp Fire disaster recovery on December 11, 2018, December 21, 2018, January 8, 2019, January 29, 2019, February 4, 2019, February 12, 2019, February 24, 2019, April 23, 2019, August 13, 2019 and September 10, 2019. The actions addressed the need for the regulation of debris removal to alleviate the public health, safety and welfare concerns associated with the ash and debris of qualifying structures and temporary emergency housing options.

S. As of February 4, 2019, the status of the Camp Fire disaster recovery is as follows: (1) Phase I cleanup by the U.S. Environmental Protection Agency and the California Department of Toxic Substances Control is complete, which has reduced the public health concerns relating to the most hazardous materials present in the Camp Fire area, (2) Phase II of the cleanup pursuant to the Government (CalOES) Program and the Alternative Program has commenced, (3) utilities are available (except for potable water), (4) numerous businesses have opened to serve the public, (5) public services are available, including a FEMA and CalOES jointly-operated Disaster Recovery Center in Paradise, California. Current threats include (1) the enormous amount of fire debris present in the Camp Fire area, (2) hazardous
materials and probable radioactive materials present in ash and
debris from qualifying structures, (3) 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. The
purpose of this ordinance is to allow residents to live on
properties in the Camp Fire area that do not contain fire ash
and debris from a qualifying structure destroyed or damaged by
the Camp Fire.

T. The Debris Removal Operations Plan for the Camp Fire prepared
by the CalOES/CalRecycle Incident Management Team provides that
the DTSC has issued reports regarding the assessment of burn
debris from wildfires in the past. The studies of burned
residential homes and structures from large scale wildland fires
indicated that the resulting ash and debris can contain asbestos
and toxic concentrated amounts of heavy metals such as antimony,
ar senic, cadmium, copper, lead, and zinc. Additionally, the ash
and debris may contain higher concentrations of lead if the home
was built prior to 1978 when lead was banned from household
paint in the United States. The reports indicated that the
residual ash of burned residential homes and structures has high
concentrations of heavy metals that can be toxic and can have
significant impact to individual properties, local communities,
and watersheds if the ash and debris is not removed safely and
promptly. The plan also indicates that the purpose of the
structural debris removal program is to remove debris that poses a risk to health and/or the environment. Debris from structures smaller than 120 square feet are not included in the program.

U. The Local Health Officer, Dr. Miller, has indicated the following: (1) the Phase II cleanup of the properties containing ash and debris from a qualifying structure mitigates the public health hazards of the Camp Fire; (2) failing to clean properties containing ash and debris from a qualifying structure can have severely negative long-term consequences to the public health and environment; (3) therefore, the County’s focus must be on accomplishment of the Phase II cleanup to address the public health hazards; (4) the standard for determining when a property is clean from ash and debris from a qualifying structure is when the Phase II cleanup work is complete and the property is certified clean by the Department of Public Health, Environmental Health Division; (5) as ash and debris of qualifying structures is the focus of the Phase II cleanup work, the significance of the public health risks is higher on properties with ash and debris from a qualifying structure; (6) given the progress the Camp Fire disaster recovery has made with respect to the hazards identified in the findings above, the remaining significant public health hazard is the ash and debris from qualifying structures; (7) based on the foregoing, properties that contain ash and debris from qualifying structures constitute a significant public health risk and
therefore, those properties should be ineligible for temporary
emergency housing until Phase II cleanup work is completed on
the property and is certified clean by the Department of Public
Health, Environmental Health Division; and (8) properties that
do not contain ash and debris from a qualifying structure do not
pose a significant public health risk and should be eligible for
temporary emergency housing.

V. There is an immediate need for housing to accommodate persons
who have been displaced by the Camp Fire. This Chapter
temporarily relaxes some building and zoning regulations to
allow for additional housing both inside and outside of the Camp
Fire affected area for displaced persons. Due to the magnitude
of the destruction, there is a need to provide for sufficient
housing options both inside and outside of the Camp Fire affected
area.

W. As of October 22, 2019, the status of the Camp Fire area was as
follows: (1) Phase II of the cleanup pursuant to the Government
(CalOES) Program and the Alternative Program have resulted in
the majority of Camp Fire parcels with final sign off and
clearance for rebuild; (2) the County has received 150
applications and issued 70 building permits for residential
parcels for Camp Fire survivors inside the Camp Fire area; (3)
the County has commenced its nuisance abatement actions on
parcels not compliant with debris removal requirements of
Chapter 53; (4) dead and dying trees litter the Camp Fire
footprint, including areas where some homes still exist and where others existed and are now pending construction; (5) the County has had trees in the County right-of-way assessed by an arborist and removed a small portion of over 6,649 hazard trees\(^1\) that have been determined to meet removal criteria; (6) Del Oro Water and Paradise Irrigation District are in the process of testing residential structures for water contaminants in the Camp Fire area; (7) numerous Camp Fire survivors who are unable to live on their property until the fire debris removal is complete are sheltering at non-congregate shelters at Lime Saddle and DeSabra campgrounds; and (8) Camp Fire survivors are reporting barriers to returning to their properties and rebuilding, including but not limited to hazard standing trees, large depressions in the ground as a result of debris removal without adequate fill dirt in the area, delays in accessing temporary power, concerns regarding contaminated drinking water in the area, and being unable to rebuild on their property because it has not yet received final sign-off in the debris removal program.

X. The majority of the Camp Fire area is located in a Very High Fire Hazard Severity Zone as shown on the California Department

\(^1\) The criteria for hazard trees for this purpose is set out in Section JJ. below.

Y. The County generally has a climate conducive to wildfires and is prone to periodic dry summers and wind events. Hazard trees pose a significant danger to the health, safety and welfare of the public by fueling and propelling wildfires, thereby increasing 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.

Z. 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 a large amount of down and dead fuel that will add to surface fire intensity and make control efforts difficult.

AA. 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.

BB. Of paramount importance to the Board and the residents of the County is the protection of lives and property from the threat of fire, including proper maintenance of evacuation routes and the safety of fire and law enforcement personnel during wildfires.

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

DD. The County Fire Chief has stated that the remaining fire damaged trees in the Concow area following the 2008 fires propelled and exacerbated the progression and severity of the Camp Fire. Further, under normal circumstances, dead and down trees hamper fire suppression efforts. The huge number of fire damaged trees from the Camp Fire justifies County action to reduce the risk posed by fire damaged standing trees.

EE. The enormity of the standing burnt trees throughout the Camp Fire area must be addressed before rebuilding will be possible.
on a scale large enough to facilitate economic recovery of the region. As a result of multiple barriers, including tree removal costs that exceed the value of their land, many homeowners are abandoning their property. If owners do not return to the Camp Fire area, businesses will not be able to open and remain in business. The County must eliminate hazard trees from the Camp Fire area to encourage rebuilding projects in the region.

FF. The County estimates 80,000 trees must be removed from approximately 4,000 private parcels adjacent to the County’s right-of-ways for County-maintained roads.

GG. 100 percent of businesses in the burn area were shut down after the Camp Fire. Approximately 150 out of the 1,200 businesses reopened 6 months later. This number does not include all home-based businesses that were displaced as a result of the residential structure burning in the Camp Fire. The survival of new and existing businesses depends primarily on the restoration of the purchasing power in the community. The loss of approximately 14,000 homes in the Camp Fire area and the subsequent displacement of the residents severely reduces the customers for businesses that sell goods and services locally and the workforce available for businesses that produce goods and services for export out of the County. The severe reduction in population dramatically reduces the ability for businesses to recover, including the ability to remain a viable business interest in the community.
State law provides property tax relief to homeowners impacted by a natural disaster by reducing their assessed value. This process provides for the removal of the value of the damaged structure effective as of the date of the disaster. Under this provision of law, the County Assessor has removed $1.93 billion from the property tax roll for the 8 months from November, 2018 - June, 2019, which reduces property tax revenue by $19.3 million. The fiscal year 2019-20 roll will reflect 12 months of reduced value as well as additional reductions to land value which could not be adjusted mid-year. Over 50 percent of property tax revenues support schools while the remaining taxes provide revenue to local jurisdictions and special districts to provide critical local services. The County receives about 20% of total property tax revenues. The State of California has committed to backfilling property taxes through fiscal year 2020-21 to account for the substantial reduction in revenue to these agencies. The only way for this critical revenue source to recover is for homes and structures to be rebuilt and property values, and therefore property taxes, to increase. Property tax is the primary discretionary revenue source for the County, accounting for over half of the County’s discretionary revenue.

The health of the communities and local economies largely depends upon repopulation; repopulation largely depends upon the mindset of the public and their sense of security regarding moving back to their land. For example, if evacuation routes
continue to suffer from falling trees, residents will not have confidence in their ability to evacuate safely during a future fire, and will choose not to rebuild in the Camp Fire area. Without that sense of security, people are moving elsewhere – which negatively impacts the economy recovery of the region – both the commercial economy and the property tax base for the County.

JJ. The County has contracted with a certified arborist and tree health expert company to assess and inventory trees rooted in the public right-of-way for tree mortality risk rating. The arborists have generated a report and forms memorializing the tree mortality data at the time of field reconnaissance and inventory efforts on February 2, 2019 through July 31, 2019. One of the purposes of the field reconnaissance effort was to identify, inventory, and assess the risk of trees rooted in the public right-of-way within the unincorporated areas of the Camp Fire disaster area that:

- Were damaged by the Camp Fire;
- Have a diameter of six inches or greater measured 4.5 feet above ground level;
- Pose an immediate threat to life, public health and safety, as a result of threatening public right-of-ways; and
- Meet one or more of the following criteria:
  1. Have a split trunk;
2. Have a broken canopy; or

3. Is leaning at an angle greater than 30 degrees; 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.

KK. 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 right-of-ways.

LL. Field reconnaissance and inventory efforts have found approximately 6,649 trees which met the defined criteria.

MM. The County’s arborists have recommended removal of all hazard trees which meet the defined criteria and are rooted along the County’s right-of-way.

NN. It is the opinion of the County Fire Chief and County’s arborists 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 County residents who use County-maintained roads due to falling trees; and (2) the increased threat of catastrophic wildfire to the Camp Fire area and surrounding area.

OO. A purpose of this Article is to establish a Hazard Tree abatement program that protects the lives and property of the public living in and traveling through the County, and the environment.
PP. The Board of Supervisors finds that Hazard Trees (as defined in this Article) pose a danger to the health, safety and welfare of the general public in the vicinity of any real property located throughout the territory of the County for the reasons set forth above. Therefore, all Hazard Trees located on real property within the unincorporated area of the County 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.

QQ. It is imperative that the County 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.

RR. The Board of Supervisors has the authority to take action to protect the health, safety and welfare of the residents of the County pursuant to its police powers granted by Article XI, Section 7 of the California Constitution, California Government Code section 25123, California Health & Safety Code section 101025 and Chapter 32A of the Butte County Code.

SS. Hazard Trees (as defined below) that:

(1) are rooted on private property; and

(2) threaten (a) roads and/or right-of-ways of County-maintained roads or (b) public improved property in the unincorporated areas of the Camp Fire area; 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.

TT. 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 2. ARTICLE V, MANDATORY HAZARD TREE REMOVAL PROGRAM, is hereby added to read as follows:

Section 53-80. Hazard Tree Removal Program.
Any tree that was fire damaged in the Camp Fire and that is in immediate danger of falling onto a public right-of-way or improved public property is a hazardous tree that must be removed to eliminate the immediate threat to the public at large. This Article establishes a hazardous tree removal program that is mandatory and sets forth the manner in which hazardous trees will be identified and removed.

Section 53-81. Effective Period.
The Hazard Tree removal program shall take effect immediately upon adoption of this Article and shall remain in effect until the removal of Hazard Trees has been completed.
Section 53-82. Definitions.

"Board." The term "Board" shall be defined as the Board of Supervisors.

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

"County." The term "County" shall be defined as the County of Butte.

"Government Hazard Tree Removal Program." The term "Government Hazard Tree Removal Program" shall be defined as the Hazard Tree removal program operated by the California Office of Emergency Services (CalOES) for the Camp Fire area in conjunction with other state and federal agencies.

"Government Hazard Tree Removal Program ROE." The term "Government Hazard Tree Removal Program ROE" shall be defined as the permit for providing Hazard Tree removal on private property approved by CalOES for use in the cleanup after the Camp Fire.

"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 a public right-of-way or other public improved property.
A map reflecting County-maintained roads in the unincorporated portion of the Camp Fire area is attached hereto as Exhibit A.

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

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

Section 53-83. Government Hazard Tree Removal Program.

A. The Government Hazard Tree Removal Program will remove all Hazard Trees at no out-of-pocket cost to the owner. If an owner does not participate in the Government Hazard Tree Removal Program, and there are Hazard Trees on their property, the owners are required to identify and remove such trees at their own cost.

B. To participate in the Government Hazard Tree Removal Program, owners must complete and submit a Government Hazard Tree Removal Program ROE. The Government Hazard Tree Removal Program ROE shall function as the sole permit and authorization for participation in the Government Hazard Tree Removal Program. Notwithstanding any contrary provision in Butte County Code, no County approvals or permits for Hazard Tree removal are required for properties
participating in the Government Hazard Tree Removal Program, other
than the Government Hazard Tree Removal Program ROE.

C. If 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 Tree Program (all costs paid by
owner), the County will enforce this Article V 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 submitted
an application for a development permit shall be given priority in
the Government Hazard Tree Removal Program.

Section 53-84. Public nuisance; violations.

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

Section 53-85 Purpose.

It is the intent of the Board of Supervisors that this ordinance
shall apply to the abatement of Hazard Trees threatening the roads
and/or right-of-ways of County-maintained roads or other public
improved property in the unincorporated areas of the Camp Fire area.

Section 53-86. Private Hazard Tree Removal Program.

As an alternative to the Government Hazard Tree Removal Program, the
Private Tree Program provides the owner with the option of identifying
and removing Hazard Tree(s) on their property at their own cost. To
participate in the Private Tree Program, owners shall submit an
Inspection Access Form for their property. Following the owner’s
identification and removal of Hazard Trees, the Private Tree Program
shall require the Enforcement Officer to make a visual confirmation
of the removal of Hazard Trees on the subject property. This visual
inspection of compliance with the Private Tree 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.

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

Section 53-87. County Development Permits.

No application for a County Development permit in the Camp Fire area
with Hazard Trees shall be considered complete until the applicant
has entered into the Government Hazard Tree Removal Program or the
Private Tree Program.
A. This section shall not apply to permits relating to power, sewer or other utilities for temporary dwellings and the installation of temporary dwellings as provided for in Chapter 53.

B. This section shall not apply to permits for wells or septic systems with the Environmental Health Division of Public Health.

Section 53-88. Deadlines and Enforcement.

A. Properties that contain Hazard Trees and that have neither an approved Government Hazard Tree Removal Program ROE nor an approved Inspection Access Form for the Private Tree Program by the deadline set by the Board, are declared a public nuisance and health hazard and such properties may be abated pursuant to this Article.

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

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

Section 53-89. Enforcement.

A. Whenever the Enforcement Officer determines that a public nuisance (as specified in this Article) exists, he or she shall
use any legal remedies available under California law to address and abate the public nuisance, including but not limited to Chapters 1, 32A and/or 41 of the Butte County Code.

B. The County may, in its discretion, abate a violation of this Article by the prosecution of a civil action, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of a violation of this Article, or requiring compliance with other terms.

C. The County may also abate a violation of this Article through the abatement process established by Government Code Section 25845.

D. If a public nuisance is found to be present on the property in violation of this Article, the Enforcement Officer shall pursue payment for Abatement and Administrative Costs from the owner and the owner of the property shall be responsible for paying all of the County's Abatement Costs and Administrative Costs.

53-90. Abatement costs; administrative costs.

A. The term "Abatement Costs" means any costs or expenses reasonably related to the abatement of conditions which violate this Article of the County Code, and shall include, but not be limited to enforcement, investigation, collection and administrative costs, and the costs associated with the removal or correction of the violation.
B. The term "Administrative Costs," shall include the cost of County staff time reasonably related to enforcement, for items including, but not limited to, site inspections, travel time, investigations, telephone contacts and time spent preparing summaries, reports, notices, correspondence, warrants and hearing packets. The time expended by the Enforcement Officer and Auditor-Controller staff, to calculate the above costs and prepare itemized invoices, may also be recovered.

53-91. Non-exclusive remedy.

This Article is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances. The County Counsel is authorized to initiate judicial enforcement as to a violation of any provision of this Article without further Board approval.

53-92. Summary abatement.

Notwithstanding any other provision of this Article, when any Hazard Tree constitutes an immediate threat to the public health or safety, and where alternative 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 County or third-party provider to summarily abate the public nuisance. The Enforcement Officer shall make reasonable efforts to notify the owner. No summary abatement shall occur prior to consultation with the Office of County Counsel. The County may
nevertheless recover its costs for abating that public nuisance in
the manner set forth in this Article.

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

Section 4. Severability. If any section, subsection, sentence,
clause, or phrase of this Ordinance is for any reason held to be
unconstitutional or invalid, such decision shall not affect the
validity of the remaining portion of this Ordinance. The Board of
Supervisors hereby declares that it would have passed this Ordinance
and every section, subsection, sentence, clause or phrase thereof
irrespective of the fact that any one or more sections, subsections,
sentences, clauses or phrases be declared unconstitutional or
invalid.

Section 5. Effective Date and Publication. This Ordinance shall be
and the same is hereby declared to be in full force and effect
immediately upon its passage by a four-fifths (4/5) or greater vote. The Clerk of the Board of Supervisors is authorized and directed to publish this Ordinance before the expiration of fifteen (15) days after its passage. This Ordinance shall be published once, with the names of the members of the Board of Supervisors voting for and against it, in a newspaper of general circulation published in the County of Butte, State of California. Pursuant to Government Code section 25124, a complete copy of this Ordinance is on file with the Clerk of the Board of Supervisors and is available for public inspection and copying during regular business hours in the office of the Clerk of the Board of Supervisors, 25 County center Drive, Oroville, California.

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PASSED AND ADOPTED by the Board of Supervisors of the County of Butte, State of California, on the 22nd day of October, 2019 by the following vote:

AYES: Supervisors Lucero, Ritter, Teeter, and Chair Lambert

NOES:

ABSENT: Supervisor Connelly

NOT VOTING:

STEVE LAMBERT, Chair

Butte County Board of Supervisors

ATTEST:

SHARI MCCracken, Chief Administrative Officer

and Clerk of the Board

By: Deputy