REGULAR CITY COUNCIL MEETING
WEDNESDAY, JULY 8, 2020

Regular Meeting - 6:30 PM

City Hall – Beryl P. Robinson, Jr. Conference Room
317 Broad Street, Nevada City, CA 95959

MISSION STATEMENT

The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.

Reinette Senum, Mayor

Duane Strawser, Council Member **Erin Minett, Vice Mayor**
David Parker, Council Member **Valerie Moberg, Council Member**

The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2nd and 4th Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

In order to minimize the spread of the COVID 19 virus Governor Newsom has issued Executive Orders that temporarily suspend requirements of the Brown Act. Please be advised that the Council Chambers are closed to the public and that some, or all, of the City of Nevada City, City Council Members may attend this meeting telephonically.

1. You are strongly encouraged to observe the City Council meetings live on PUBLIC TELEVISION CHANNEL 17, ONLINE AT THE CITY'S WEBSITE WWW.NEVADACITYCA.GOV or* Nevada City Public Meetings-YouTube Channel *or at HTTP://NEVCO.GRANICUS.COM/PLAYER/CAMERA/2?PUBLISH_ID=7 (If you are unable to view the meeting live on YouTube please use one of the other 3 methods).

2. If you wish to make a comment on a specific agenda item, please submit your comment via email to NEVADACITY.OLSON@GMAIL.COM. Comments will be accepted at the email provided through the live meeting. PLEASE INCLUDE YOUR NAME AND ADDRESS IN YOUR COMMENT, AS WELL AS, INCLUDING THE AGENDA ITEM LETTER AND NUMBER IN YOUR SUBJECT LINE.

3. In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in this meeting, please contact the Deputy City Clerk at (530) 265-2496 x133. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II].

The City of Nevada City thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.

ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA: After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion.
IF YOU CHALLENGE the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

CLOSED SESSION: None

Under Government Code Section 54950 members of the public are entitled to comment on the closed session agenda before the Council goes into closed session.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Mayor Senum, Vice Mayor Minett, Council Members Moberg, Parker and Strawser

PLEDGE OF ALLEGIANCE

PROCLAMATIONS: "A Proclamation of Appreciation"

PRESENTATIONS:

BUSINESS FROM THE FLOOR

1. **OUTGOING COUNCIL MEMBER AND MAYOR REMARKS**

2. **REORGANIZATION OF CITY COUNCIL:**

   A. **Subject:** Selection of Mayor and Vice Mayor to Service for Fiscal Year 2020-2021
   Recommendation: Conduct the selection process for Mayor and Mayor Pro Tem (Vice Mayor) in accordance with the Mayoral Succession adopted as amended pursuant to Resolution 2012-27.

3. **PUBLIC COMMENT**
   Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

4. **COUNCIL MEMBERS REQUESTED ITEMS, COMMITTEE REPORTS AND FUTURE AGENDA ITEMS:**

5. **CONSENT ITEMS:**
   All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt,

members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

A. Subject: Action Minutes June 24, 2020 City Council Meeting
Recommendation: Review and approve City Council Meeting action minutes of June 24, 2020.

B. Subject: Action Minutes June 30, 2020 Special City Council Meeting
Recommendation: Review and approve Special City Council Meeting action minutes of June 30, 2020.

6. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. Subject: Automatic Extension of City's Evictions Moratorium (for COVID-19) Until September 30, 2020
Recommendation: Receive and file.

B. Subject: Resolutions Calling for a Special Municipal Election on November 3, 2020 with a Ballot Measure Concerning the City Clerk and City Treasurer and Resolution to Submit a Ballot Measure with a Special Transactions and Use Tax and Associated Ordinance
Recommendation:

1. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, California Calling a Special Municipal Election to be Held on Tuesday, November 3, 2020, Submitting to the Electorate at that Election a Ballot Measure Relating to the Offices of City Clerk and City Treasurer, Requesting that the Board of Supervisors of the County of Nevada Consolidate the Special Municipal Election with other Elections to be Held on November 3, 2020, and Taking Certain Related Actions; and

2. Waive reading of Ordinance in its entirety, read by title only, and approve a first reading of an Ordinance of the City of Nevada City, California Imposing a Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration; and

3. Pass Resolution 2020-XX, a Resolution of the City Council of the City Of Nevada City, California, Submitting a Special Transactions and Use Tax Measure to the Voters at the November 3, 2020 Special Municipal Election and Taking Certain Related Actions.

7. PUBLIC HEARINGS:

A. Subject: Ordinance Amendment for the Regulation of Accessory Dwelling Units
Recommendation: Receive and file.

B. Subject: An Ordinance of the City of Nevada City Repealing and Reenacting Chapter 13.08 of the Nevada City Municipal Code Regulating the City's Sewer System

Recommendation: After holding a public hearing, approve for introduction and first reading of Ordinance by title only, waiving further reading of the entire Ordinance.

8. OLD BUSINESS:

A. Subject: Resolution 2020-XX, a Resolution Approving the Memorandum of Understanding (MOU) Regarding approval of an MOU between the County of Nevada and Cities of Nevada City and Grass Valley for joint application and administration of Permanent Local Housing Allocation (PLHA) Plan and Resolution 2020-XX Authorizing the formation of a Regional Local Housing Trust Fund (LHTF) with the County of Nevada, the City of Grass Valley and the City of Nevada City

Recommendation:

1. Pass Resolution 2020-XX, a Resolution approving a memorandum of understanding between the County of Nevada, City of Grass Valley and City of Nevada City pertaining to the proposed regional application for the Permanent Local Housing Allocations (PLHA) and authorizing the formation of a Regional Housing Trust Fund (RHTF) for the coordination and administration of the Permanent Local Housing Allocations; and

2. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, Authorizing the County Of Nevada to Apply to Jointly Form A Regional Local Housing Trust Fund.

9. NEW BUSINESS:

A. Subject: An Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management to Comply with FEMA's Requirements

Recommendation:

1. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, State of California approving a Notice of Exemption (Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management to Comply with FEMA's Requirements); and

2. Approve for introduction and first reading of Ordinance by title only, waiving further reading of the entire Ordinance.

10. CORRESPONDENCE:

A. Subject: Nevada County Relief Fund donation

B. Subject: Grand Jury Report – Fire Inspection in Nevada County – What We Don't Know Can Hurt Us

11. ANNOUNCEMENTS:

12. CITY MANAGER'S REPORT:

13. ADJOURNMENT

Certification of Posting of Agenda

I, Loree' McCay, Administrative Services Manager for the City of Nevada City, declares that the foregoing agenda for the July 8th, 2020 Regular Meeting of the Nevada City City Council was posted July 2nd , 2020 at the entrance of City Hall. The agenda is also posted on the City's website www.nevadacityca.gov.

Signed July 2nd, 2020, at Nevada City, California

_____

Loree' McCay, Administrative Services Manager

CITY OF NEVADA CITY
City Council
Long Range Calendar

July 3, 2020	Holiday
July 8, 2020	Regular Council Meeting
July 22, 2020	Regular Council Meeting
August 12, 2020	Regular Council Meeting
August 26, 2020	Regular Council Meeting
September 7, 2020	Holiday
September 9, 2020	Regular Council Meeting
September 23, 2020	Regular Council Meeting
October 12, 2020	Holiday
October 14, 2020	Regular Council Meeting
October 28, 2020	Regular Council Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

NOTICE: *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Selection of Mayor and Vice Mayor to Service for Fiscal Year 2020-2021

RECOMMENDATION: Conduct the selection process for Mayor and Mayor Pro Tem (Vice Mayor) in accordance with the Mayoral Succession adopted as amended pursuant to Resolution 2012-27.

CONTACT: Catrina Olson, City Manager

BACKGROUND/DISCUSSION:
The Mayoral Succession Policy for Nevada City was clarified and modified by Resolution 2012-27 (copy attached) providing for selection for the positions of Mayor and Mayor Pro Tem (Vice Mayor) on a rotating basis.

Pursuant to the adopted Policy, current Vice Mayor Erin Minett automatically succeeds Mayor Reinette Senum unless she declines. The Policy further provides that the next senior member who has served for at least 11 months be appointed Vice Mayor. Council Member Duane Strawser meets this criteria and is eligible for selection as Vice Mayor unless he decline.

Should a member of the Council who is to assume either position not be present, the Council can postpone the action or make the designations contingent upon that member's acceptance of the position.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable

ATTACHMENT:
- ✓ Resolution 2012-27

RESOLUTION 2012-27

RESOLUTION CONSOLIDATING THE POLICY AND ALL AMENDMENTS TO THE MAYORAL SUCCESSION POLICY FOR THE CITY COUNCIL OF NEVADA CITY

WHEREAS, Resolution 2007-34 establishing the policy for mayoral succession in Nevada City, was amended at the meeting of March 28, 2007 without updating the written record and was again revised at the regular Council meeting on June 23, 2010, to provide in Paragraph 6 "No member shall serve as mayor during their first two years on the City Council" (increasing the time period from one to two years and was again revised on June 27, 2012 to clarify the required term for a Mayor Pro Tem to have served for 23 months, and

WHEREAS, The City Council desires to further clarify the policy to address the appropriate tenure requirement for the Mayor Pro Tem to establish an appropriate succession of the Mayor Pro Tem to the position of Mayor after serving one year as Mayor Pro Tem, and

WHEREAS, It is most appropriate and effective to have a comprehensive policy statement adopted by the City Council for future reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Nevada City does hereby rescind Resolution 2007-34, Resolution 2012-23 and all other modifications to the Mayor Succession Policy in order to consolidate the original policy with all subsequent modifications into the policy stated in Attachment 'A'; and

BE IT FURTHER RESOLVED, the City Council hereby adds an additional amendment to the policy to ensure that the appointment of Council Members to Mayor Pro Tem and their subsequent succession to Mayor ensures that the maximum opportunity for serving as Mayor is afforded to all Council Members with as much experience in office as can be acquired before serving in those leadership positions. To this purpose, the policy will include the requirement that in order for a Councilmember to be appointed to the position of Mayor Pro Tem, they must have a minimum of eleven (11) months in office as a Nevada City Councilmember

PASSED AND ADOPTED by the City Council of the City of Nevada City held on 11th day of July, 2012, by the following vote:

AYES: **MCKAY, BERGMAN, HARRIS, SENUM**

NOES: **NONE**

ABSENT: **STRAWSER**

ABSTAIN: **NONE**

David McKay, Mayor

ATTEST:

Niel Locke, City Clerk

Attachment 'A' for Resolution 2012-XX

Mayoral Succession Policy in Nevada City

It has been hereby resolved by the City Council of the City of Nevada, California, that the positions of Mayor and Mayor Pro Tem of Nevada City shall rotate based upon the following policy:

1) The Mayor shall be the senior member who has served on the City Council for a minimum of twenty three (23) months and not previously served in that capacity. The term of office shall be one year, without succession, beginning at the first regularly scheduled City Council meeting each July or the first meeting following certification of a City Council election.

2) The Mayor Pro Tem shall be the next senior member who has served a minimum of eleven (11) months and not previously served as Mayor. The term of office shall run concurrent with that of the mayor as described above.

3) When two or more members have equal seniority and have not yet served as Mayor or Mayor Pro Tem, the order of succession shall be determined by the number of votes each member received at the time of their election.

4) The Mayor Pro Tem shall automatically succeed the Mayor each year, excepting that the Mayor Pro Tem may decline such succession. If the Mayor Pro Tem declines the position of Mayor, such office shall be extended to the next senior member in order, or by majority vote of the Council if all other members have served at least one year as Mayor.

5) Once all seated members have served as Mayor, succession shall be based on a majority vote of the Council, recognizing that the term of office for each position shall be one year.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Action Minutes June 24, 2020 City Council Meeting

RECOMMENDATION: Review and approve City Council Meeting action minutes of June 24, 2020.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:
The action minutes for the June 24, 2020 are attached for review.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:
- ✓ City Council Meeting action minutes June 24, 2020

CITY OF NEVADA CITY
ACTION MINUTES
REGULAR CITY COUNCIL MEETING OF JUNE 24, 2020

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to *Quick Links* and Click on *Agendas & Minutes* and find the Archived Videos in the middle of the screen. Select the meeting date and Click on *Video* to watch the meeting. For website assistance, please contact Loree' McCay, Deputy City Clerk at (530) 265-2496, ext 134.

- City Council Meetings are available on DVD. To order, contact City Hall - cost is $15.00 per DVD.
- Closed Session Meetings are not recorded.

CLOSED SESSION – 6:15 PM

1. Pursuant to Government Code Section 54957.6 a closed session is requested for the purpose of meeting with the City Manager as the City Council's designated labor representative and the Administrative Services Manager with regard to negotiations with the Miscellaneous Employee's Association, Nevada City Management and Supervisory Employees, Police Supervisor's Association, Nevada City Police Officer's Association and the Nevada County Professional Firefighters, Local 3800.

Action: No reportable action.

REGULAR MEETING – 6:30 PM - Call to Order

Roll Call: Present: Mayor Senum, Vice Mayor Minett, Council Members Strawser and
Absent: Council Member Moberg

PLEDGE OF ALLEGIANCE

PROCLAMATIONS: "A Proclamation of Appreciation"

PRESENTATIONS:

BUSINESS FROM THE FLOOR:

Action: Motion by Minett, seconded by Strawser to set a Special City Council meeting for June 30, 2020 at 6 PM via ZOOM to address the Governor's face covering mandate
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

1. PUBLIC COMMENT (Per Government Code Section 54954.3)
Please refer to the meeting video on the City's website at www.nevadacityca.gov.

2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS AND FUTURE AGENDA ITEMS:
Action: Item number 2 was moved for discussion ahead of public comment.

3. CONSENT ITEMS:

A. Subject: Fire Activity Report – May 2020
Recommendation: Receive and file.

B. Subject: Nevada City's Special Tax (1986) and Special Tax (Measure K) for the Fiscal Year 2020/2021
Recommendation: Pass Resolution's 2020-41 and 2020-42, Resolutions of the City of Nevada City Requesting the Nevada County Auditor-Controller and Tax Collector to Collect Nevada City's Special Tax (1986) and 2002 Special Tax (Measure K) for the Fiscal Year 2020/2021.

C. Subject: A Resolution of the City of Nevada City, City Council, Approving the Amendments to Memorandum of Understanding (MOU) Agreements Between the City and All Five (5) Bargaining Units Effective June 13, 2020 - June 30, 2021
Recommendation: Pass Resolution 2020-43, a Resolution of the City of Nevada City, City Council, approving the amendments to Memorandum of Understanding (MOU) Agreements between the City and all five (5) bargaining units effective June 13, 2020 - June 30, 2021.

D. Subject: City of Nevada City Response to 2020 Nevada County Grand Jury Report, Wildfire Prevention: Let's Treat it as if Our Lives Depend on it
Recommendation: Review and authorize response to 2020 Nevada County Grand Jury Report, Wildfire Prevention: Let's Treat it as if Our Lives Depend on it.

E. Subject: Letter of Advocacy Regarding Jurisdictional Leadership - Resilience Roadmap & COVID19 Recovery
Recommendation: Review, approve and authorize the Mayor to sign the attached Jurisdictional Leadership - Resilience Roadmap & COVID19 Recovery letter.

F. Subject: Letter of Support Request from Nevada County Transportation Commission (NCTC) for Active Transportation Grant Application
Recommendation: Review, approve and authorize the Mayor to sign a letter of support for the Nevada County Transportation Commission (NCTC) for the Active Transportation Grant Application.

G. Subject: Local Transportation Fund (LTF) Claim for Transit and Paratransit Operations
Recommendation: Pass Resolution 2020-44 requesting the Nevada County Transportation Commission (NCTC) allocate $98,545 of the City's Fiscal Year 2020/21 Local Transportation Funds (LTF) for public transportation.

H. Subject: Acquisition of Easement and Right of Entry for Nevada Street Bridge Replacement Project
Recommendation: Ratify formal acquisition offers for sewer easement, temporary construction easement and Right of Way and authorize the City Engineer to sign the right-of-way contracts and agreements for the Nevada Street Bridge replacement project.

I. **Subject:** Action Minutes June 10, 2020 City Council Meeting
Recommendation: Review and approve City Council Meeting action minutes of June 10, 2020.

Action: Motion by Strawser, seconded by Parker to approve items 3A through 3H as presented. Item 3I was pulled from the consent for a separate vote.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)
Action: Motion by Strawser, seconded by Parker to approve item 3I presented.
(Approved 4-0, Abstention 1 - Moberg, Roll call votes ayes Strawser, Parker, Minett and Senum)

4. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

A. **Subject:** Old Airport Solar Project Update
Recommendation: Receive and file.

Action: No action, receive and file.

B. **Subject:** A Resolution Approving a Local Early Action Planning (LEAP) Grant Application
Recommendation: Pass Resolution 2020-45, a Resolution of the City Council of the City of Nevada City, State of California, authorizing an application for a Local Early Action Planning (LEAP) Grant Application program and 2) direct City staff to submit an application to the California Department of Housing and Community Development (HCD).

Action: Motion by Strawser, seconded by Moberg to pass Resolution 2020-45, a Resolution of the City Council of the City of Nevada City, State of California, authorizing an application for a Local Early Action Planning (LEAP) Grant Application.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)
Action: Motion by Strawser, seconded by Moberg to direct City staff to submit an application to the California Department of Housing and Community Development (HCD).
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

C. **Subject:** Collection of Delinquent Sewer and/or Water Accounts on the Nevada County Tax Roll
Recommendation: Pass Resolution 2020-46, a Resolution requesting the Nevada County Board of Supervisors to authorize the County Auditor-Controller and the County Tax Collector to levy and collect delinquent sewer and/or water service charges against certain properties within the City of Nevada City.

Action: Action: Motion by Moberg, seconded by Parker to direct City staff to pass Resolution 2020-46, a Resolution requesting the Nevada County Board of Supervisors to authorize the County Auditor-Controller and the County Tax Collector to levy and collect delinquent sewer and/or water service charges against certain properties within the City of Nevada City.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

5. PUBLIC HEARINGS:

6. OLD BUSINESS:

A. **Subject:** A Resolution Approving a Site Plan and Architectural Review Application for Development of the 56-Unit Affordable Housing Project at 170 Ridge Road

Recommendation:

1. Pass Resolution 2020-47, a Resolution of the City Council of the City of Nevada City, State of California, approving a Site Plan and Architectural Review application for a proposed 56-unit affordable housing project at 170 Ridge Road, subject to Conditions of Approval, pursuant to Sections Section 17.88.010 and 17.88.040, of the City Municipal Code.
2. Review, approve and authorize the Mayor to sign a letter in support of the Cashin's Field Affordable Housing Development at 170 Ridge Road, Nevada City, CA.

Action: Motion by Strawser, seconded by Parker to pass Resolution 2020-47, a Resolution of the City Council of the City of Nevada City, State of California, approving a Site Plan and Architectural Review application for a proposed 56-unit affordable housing project at 170 Ridge Road, subject to Conditions of Approval, pursuant to Sections Section 17.88.010 and 17.88.040, of the City Municipal Code.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)
Action: Motion by Strawser, seconded by Parker to approve and authorize the Mayor to sign a letter in support of the Cashin's Field Affordable Housing Development at 170 Ridge Road, Nevada City, CA with minor changes based on suggested guidelines from Tax Allocation Credit Committee.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

B. **Subject:** Commitment of Permanent Local Housing Allocation (PLHA) Capital Funds Loan for Cashin's Field Affordable Housing Project
Recommendation: Review, approve and authorize the Mayor to sign the letter of commitment for a loan of Permanent Local Housing Allocation (PLHA) funds for the Cashin's Field Affordable Housing Project at 170 Ridge Road, Nevada City, CA.

Action: Motion by Strawser, seconded by Parker to approve and authorize the Mayor to sign the letter of commitment for a loan of Permanent Local Housing Allocation (PLHA) funds for the Cashin's Field Affordable Housing Project at 170 Ridge Road, Nevada City, CA.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

7. NEW BUSINESS:

8. CORRESPONDENCE:

9. ANNOUNCEMENTS:

10. CITY MANAGER'S REPORT: A verbal report was provided.

11. ADJOURNMENT: - 9:53 PM

AYES: SENUM, MINETT, STRAWSER, MOBERG, PARKER

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____
Erin Minett, Mayor

_____
Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Action Minutes June 30, 2020 Special City Council Meeting

RECOMMENDATION: Review and approve Special City Council Meeting action minutes of June 30, 2020.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:
The action minutes for the June 30, 2020 are attached for review.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Not applicable.

ATTACHMENTS:
- ✓ Special City Council Meeting action minutes June 30, 2020

CITY OF NEVADA CITY
ACTION MINUTES
SPECIAL CITY COUNCIL MEETING OF JUNE 30, 2020

NOTE: This meeting is available to view on the City's website www.nevadacityca.gov – Go to *Quick Links* and Click on *Agendas & Minutes* and find the Archived Videos in the middle of the screen. Select the meeting date and Click on *Video* to watch the meeting. For website assistance, please contact Loree' McCay, Deputy City Clerk at (530) 265-2496, ext 134.

- **City Council Meetings are available on DVD. To order, contact City Hall - cost is $15.00 per DVD.**
- **Closed Session Meetings are not recorded.**

CLOSED SESSION – None

SPECIAL MEETING – 6:00 PM - Call to Order

Roll Call: Present: Mayor Senum, Vice Mayor Minett, Council Members Strawser and Absent: Council Member Moberg

1. **PUBLIC COMMENT**: As long as this is a special meeting, under Government Code section 54954.3(a) members of the public are entitled to address the City Council only on items on the agenda for this special meeting before or during consideration of that item and NOT ON MATTERS NOT ON THE AGENDA for this special meeting.

2. **PRESENTATION:** Ryan Gruver, Nevada County Health and Human Services Director – Governor's Guidance from the California Department of Public Health (CDPH) for Face Coverings

3. **SUBJECT:** A Resolution Affirming the California Department of Public Health's Updated Guidance Mandating the Wearing of Face Coverings in High-Risk Situations and Encouraging the Public to Follow the Updated Guidance
   RECOMMENDATION: Pass Resolution 2020-48, a Resolution of the City Council City of Nevada City Affirming the California Department of Public Health's Updated Guidance Mandating the Wearing of Face Coverings in High-Risk Situations and Encouraging the Public to Follow the Updated Guidance.

Action: Motion by Strawser, seconded by Parker to pass Resolution 2020-48, a Resolution of the City Council City of Nevada City Affirming the California Department of Public Health's Updated Guidance Mandating the Wearing of Face Coverings in High-Risk Situations and Encouraging the Public to Follow the Updated Guidance.
(Approved 5-0 Roll call votes ayes Strawser, Parker, Moberg, Minett and Senum)

4. **ADJOURNMENT: 7:25 pm**

AYES: **SENUM, MINETT, STRAWSER, MOBERG, PARKER**

NOES:

ABSTAIN:

ABSENT:

ATTEST:

_____
Erin Minett, Mayor

_____
Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Automatic Extension of City's Evictions Moratorium (for COVID-19) Until September 30, 2020

RECOMMENDATION: Receive and file.

CONTACT: Catrina Olson, City Manager
Crystal Hodgson, City Attorney

BACKGROUND / DISCUSSION:
On March 16, 2020, in response to the COVID-19 global pandemic, the Governor issued Executive Order N-28-20, which suspended any state law that would preempt or otherwise restrict the City's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19. Executive Order N-28-20 was originally set to expire on May 31, 2020. On May 29, 2020, the Governor issued Executive Order N-66-20, which, among other actions, extended for 60 days until July 28, 2020, the provision of Executive Order N-28-20 which suspended state laws that would preempt or otherwise restrict the city's exercise of its police power to impose substantive limitations on evictions based on nonpayment of rent resulting from the impacts of COVID-19.

On June 1, 2020, the City Council adopted an urgency Ordinance No. 2020-08 imposing a moratorium on residential and commercial evictions within the City for non-payment of rent related to COVID-19 impacts, which by its terms, expires upon the expiration of the Governor's Executive Order N-28-20, and any subsequent extensions. On June 30, 2020, the Governor issued Executive Order N-71-20, which, among other things, further extended the term of Executive Order N-28-20 from July 28, 2020, through September 30, 2020. Therefore, the City's Urgency Ordinance No. 2020-08 instituting the City evictions moratorium is automatically extended through September 30, 2020.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: None.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Resolutions Calling for a Special Municipal Election on November 3, 2020 with a Ballot Measure Concerning the City Clerk and City Treasurer and Resolution to Submit a Ballot Measure with a Special Transactions and Use Tax and Associated Ordinance

RECOMMENDATION:

1. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, California Calling a Special Municipal Election to be Held on Tuesday, November 3, 2020, Submitting to the Electorate at that Election a Ballot Measure Relating to the Offices of City Clerk and City Treasurer, Requesting that the Board of Supervisors of the County of Nevada Consolidate the Special Municipal Election with other Elections to be Held on November 3, 2020, and Taking Certain Related Actions; and

2. Waive reading of Ordinance in its entirety, read by title only, and approve a first reading of an Ordinance of the City of Nevada City, California Imposing a Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration; and

3. Pass Resolution 2020-XX, a Resolution of the City Council of the City Of Nevada City, California, Submitting a Special Transactions and Use Tax Measure to the Voters at the November 3, 2020 Special Municipal Election and Taking Certain Related Actions.

CONTACT: Catrina Olson, City Manager
Crystal Hodgson, City Attorney

BACKGROUND / DISCUSSION:

In 2006, the voters of the City of Nevada City approved a 0.5% special transactions and use tax ("sales tax") to fund streets, sidewalks, pathways and street drainage, known as "Measure S." That special tax was designed to sunset after 16 years, which will be in March 2023. The need for revenue to fund these uses, as well as the City's water, sewer and drainage systems continues to exist. At the November 13, 2019 City Council meeting, the Council directed staff bring back resolutions calling for a Special Municipal Election to be held on November 3, 2020, with a ballot measure to extend Measure S without a sunset clause, and to expand the purpose of the take to include City's water and sewer infrastructure.

Staff has also prepared a ballot measure that would change the City Clerk and City Treasurer positions from elected positions to appointed ones. If approved by the voters, the current City Clerk and City Treasurer would continue to serve their terms, and the City Council would be able to appoint replacements at the end of those terms, or as such time as a an earlier vacancy occurs.

The first resolution for your consideration calls for the special election to be held on Tuesday, November 3, 2020, and contains the ballot language to be submitted to the voters to change the City Clerk and City Treasurer from elected to appointed. The resolution also requests the governing body of the County of Nevada, as prescribed by Election Code Section 10402 and 10403 to consolidate the regularly scheduled district election with any other elections to be held on November 3, 2020, authorizes the Mayor to file an argument in favor of the measure, authorizes rebuttal arguments, and directs the City Attorney to prepare the impartial analysis of the measure.

The second resolution for your consideration contains the ballot measure to be submitted to the voters with the Special Transactions and Use Tax of ½ a cent per dollar (1/2%) to be used for streets, sidewalks, pathways, and sewer and water facilities. It also authorizes the Mayor to file an argument in favor of the measure, authorizes rebuttal arguments, and directs the City Attorney to prepare the impartial analysis of the measure.

The proposed tax requires 2/3 approval of the voters. If approved, Measure S would expire on December 31, 2021, and the new tax would take effect on January 1, 2022 ensuring a seamless continuation of the tax, with no overlap. If the measure fails to get the required voter approval, the Council still has a year to decide whether to resubmit the special tax to voters or propose another type of tax to make up the funding in 2021.

Attached to the second resolution is an Ordinance adding the Transactions and Use Tax to the Nevada City Municipal Code; a first reading of this Ordinance must be held before your approval of the second resolution. The Ordinance also calls for the formation of a citizen's oversight committee to annually review City's use of the special tax funds.

Also attached to the staff report is an "Infrastructure Capital Improvement Plan" containing staff's recommended plan for use of the special tax funds for the first 10 years of the tax, should the voters approve the tax measure. If the measure is approved, staff will bring this Plan back to the City Council for its adoption.

FISCAL IMPACT: The City agrees to reimburse the County of Nevada for the City's prorated share of the costs of the election which is approximately $3,000.

ATTACHMENT:

- ✓ A Resolution Of The City Council Of The City Of Nevada City, California Calling A Special Municipal Election To Be Held On Tuesday, November 3, 2020, Submitting To The Electorate At That Election A Ballot Measure Relating To The Offices Of City Clerk And City Treasurer, Requesting That The Board Of Supervisors Of The

County Of Nevada Consolidate The Special Municipal Election With Other Elections To Be Held On November 3, 2020, And Taking Certain Related Actions; and

- ✓ Ordinance of the City Of Nevada City, California Imposing A Transactions And Use Tax To Be Administered By The California Department Of Tax And Fee Administration; and
- ✓ A Resolution of the City Council of the City of Nevada City, California, Submitting a Special Transactions and Use Tax Measure To The Voters At The November 3, 2020 Special Municipal Election And Taking Certain Related Actions.
- ✓ Proposed Infrastructure Capital Improvement Plan

RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, CALIFORNIA CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, SUBMITTING TO THE ELECTORATE AT THAT ELECTION A BALLOT MEASURE RELATING TO THE OFFICES OF CITY CLERK AND CITY TREASURER, REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA CONSOLIDATE THE SPECIAL MUNICIPAL ELECTION WITH OTHER ELECTIONS TO BE HELD ON NOVEMBER 3, 2020, AND TAKING CERTAIN RELATED ACTIONS

WHEREAS, Government Code Section 36501 requires the City of Nevada City to have a City Clerk and a City Treasurer; and

WHEREAS, the office of City Clerk and the office of City Treasurer are currently elective offices; and

WHEREAS, Government Code Section 36508 authorizes the City Council to submit to the voters the question of whether the City Clerk and the City Treasurer should be instead appointed by the City Council; and

WHEREAS, the City Council desires to submit this question to the voters at a special municipal election on November 3, 2020 and to request that such election be administered by Nevada County and consolidated with the other elections to be held on that same date; and

NOW THEREFORE, BE IT RESOLVED, the City Council of Nevada City does hereby resolve, determine and order as follows:

Section 1. That there is called and ordered to be held in the City of Nevada City, California, on Tuesday, November 3, 2020, a Special Municipal Election.

Section 2. That the following question be submitted to the voters at the Special Municipal Election:

Shall the offices of City Clerk and City Treasurer be appointive?	YES	
	NO	

This measure requires a simple majority vote to pass.

Section 3. That pursuant to Elections Code Section, the Board of Supervisors of the County of Nevada is hereby requested to consent and agree to the consolidation of the Special Municipal Election with other elections on Tuesday, November 3, 2020.

Section 4. That pursuant to the provisions of Section 10002 of the Election Code of the State of California, the City Council requests the Board of Supervisors of the County of Nevada to permit the County Election Department to conduct the Special Municipal Election.

Section 5. That the County Election department is authorized to canvass the returns of the Special Municipal Election. The election shall be held in all respects as if there were only one election, and one form of ballot shall be used.

Section 6. Pursuant to Elections Code section 10002, the City Council requests that the Nevada County Board of Supervisors authorize the Nevada County Registrar of Voters to provide any and all services necessary to conducting the election on November 3, 2020. The City agrees to pay for such services.

Section 7. That the City Clerk and/or the Deputy City Clerk is directed to forward a certified copy of this Resolution to the County Elections Department.

Section 8. The City Clerk and/or the Deputy City Clerk is directed, pursuant to Elections Code Section 9280, to transmit a copy of the measure to the City Attorney for the purpose of preparing an impartial analysis of measure, to be submitted no later than the final date for such analysis as established by the Nevada County Elections Official.

Section 9. The ballot question as set forth above is the full text of the measures. Pursuant to Elections Code Section 36510, if the majority of the votes cast for the ballot measure is for it, the City Council shall appoint the City Clerk and the City Treasurer upon the earlier of the expiration of the term of the officer now in office, or the existence of vacancy in such office.

Section 10. The City Council authorizes the Mayor, or in his or her absence, the Vice Mayor, on behalf of the City Council, to file the written primary argument in support of the ballot measure described above pursuant to Article 4 of Chapter 3 of Division 9 of the California Elections Code. Signatories to the argument shall be determined by the Mayor and may include the Mayor signing on behalf of the City Council. Pursuant to Elections Code Section 9282, arguments in support of the measure shall not exceed 300 words in length.

Section 11. The City Council authorizes the filing of rebuttal arguments. Pursuant to Elections Code Section 9285, rebuttal arguments against the ballot measure mentioned above shall not exceed 250 words in length, shall be filed with the City Clerk and/or Deputy City Clerk no later than 10 days after the final filing date for arguments in favor, shall be signed by no more than five persons, and shall be printed in the same manner as a direct argument and shall immediately follow the direct argument which it seeks to rebut.

Section 12. The City Clerk has fixed 5:00 p.m. on the last date established by the County Elections Official for receipt of arguments for or against the measures.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held on the 8th day of July, 2020 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Erin Minett, Mayor

ATTEST:

Niel Locke, City Clerk

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF NEVADA CITY, CALIFORNIA
IMPOSING A TRANSACTIONS AND USE TAX TO BE
ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE
ADMINISTRATION

THE PEOPLE AND CITY COUNCIL OF THE CITY OF NEVADA CITY DO ORDAIN AS FOLLOWS:

Section 1. Chapter 3.54 is added to Title 3 (Revenue & Finance) of the Nevada City Municipal Code to read as follows:

Chapter 3.54 Special Transactions And Use Tax

3.54.010 Short Title

This ordinance shall be known as the Nevada City Special Transactions and Use Tax Ordinance. The city of Nevada City hereinafter shall be called "City." This ordinance shall be applicable in the incorporated territory of the City.

3.54.020 Operative Date

"Operative Date" means January 1, 2022.

3.54.030 Purpose

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

3.54.040 Contract with State

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.54.050 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of 1.5% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.54.060 Place of Sale

For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.54.070 Use Tax Rate

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of 1.5% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.54.080 Adoption of Provisions of State Law

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions

of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

3.54.090 Limitations on Adoption of State Law and Collection of Use Taxes

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. “A retailer engaged in business in the District” shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars ($500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.54.100 Permit Not Required

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.54.110 Exemptions and Exclusions

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code

with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.54.120 Amendments

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.54.130 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.54.140 Severability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

3.54.150 Use of Proceeds and Plan for Expenditure

Proceeds of the taxes imposed by this chapter shall be deposited in a special account and shall be expended only for the specific projects of improving and maintaining all of Nevada City's streets, sidewalks, pathways, drainage, water distribution and sewer collection systems and for no other purposes.

3.54.160 Annual Report

The Finance Director shall, at least annually, file a report with the City Council stating both: (i) the amount of funds collected and expended, and (ii) the status of any expenditure authorized pursuant to Section 3.54.150 of this chapter. The annual report may be combined with any other financial report prepared by the City.

3.54.170 Oversight Committee

The City Council shall establish, a Citizen's Oversight Committee, which shall have no less than five members. The terms, composition, and specific duties of the Committee shall be established by resolution of the City Council; however all members of the Committee shall be residents of the City. The Committee shall review the annual report required by Section 3.54.160 of this chapter and may make such recommendations to the City Council as it deems necessary or useful. The Committee may, by a majority vote of its membership, choose to publish a report, in

which event such report, if approved by a majority of the members, shall be published on the City's internet page. Members of the Citizen's Oversight Committee shall be appointed by the City Council, and any member may be removed from the Committee prior to the end of his or her term by a two-thirds vote of the Council. In the event the City Council, the Citizen's Oversight Committee, the City, any employee of the City, or any member of the City Council or the Citizen's Oversight Committee fails to take an action required by this Section, any court of competent jurisdiction may order that the action be taken. However, such failure to act shall not invalidate the City's authority to levy any tax or in any way affect the ongoing collection of any tax pursuant to this Chapter. The Committee shall consist of at least five members who shall be residents of the City, and all meetings of the Committee shall comply with the provisions of the Ralph M. Brown Act (Gov't Code Section 54950, et seq.).

Section 2. Chapter 3.48 of the Municipal Code is repealed as of January 1, 2022. The intent of this Section is that the tax imposed by this Ordinance will go into effect on January 1, 2022, and the existing tax will be operative through and including December 31, 2021.

Section 3. This Ordinance shall be effective only if approved by approved by a two-thirds vote of the qualified voters of the city voting on the ordinance at the November 3, 2020 municipal election. If so approved, it shall become effective as of the 10th day following its adoption by the voters. The taxes imposed by this Ordinance shall be effective as of the dates set forth in Section 1.

INTRODUCED BY THE CITY COUNCIL ON _____, 2020 AND PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NEVADA CITY this _____ day of _____ 2020 BY THE FOLLOWING VOTE.

Ayes:
Nays:
Present

_____
Erin Minette, Mayor

ATTEST:

_____
_____, City Clerk
(seal)

Date: _____

ADOPTED BY THE VOTERS OF THE CITY OF NEVADA CITY AT THE NOVEMBER 3, 2020 ELECTION.

_____
Erin Minett, Mayor

ATTEST:

_____
_____, City Clerk
(seal)

Date: _____

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, CALIFORNIA, SUBMITTING A SPECIAL TRANSACTIONS AND USE TAX MEASURE TO THE VOTERS AT THE NOVEMBER 3, 2020 SPECIAL MUNICIPAL ELECTION AND TAKING CERTAIN RELATED ACTIONS

RECITALS

A. In 2006, the voters of the City of Nevada City approved a 0.5% special transactions and use tax ("sales tax") to fund streets, sidewalks, pathways and street drainage.

B. That special tax was designed to sunset after 16 years.

C. The need for revenue to fund these uses, as well as the City's water, sewer and drainage systems continues to exist.

D. On July 8, 2020, by its Resolution No. 2020-XX, this Council called for the holding of a Special Municipal Election on November 3, 2020 (the "Election").

E. Also on July 8, 2020, by its Resolution No. 2020-XX, this Council requested that the Election be consolidated with the Statewide General Election to be held on November 3, 2020 and requested the assistance of the Nevada County Election Department in the conduct of the Election.

F. Revenue & Taxation Code Section 7285.91 authorizes the City Council to levy a transactions and use tax for specific purposes if the ordinance proposing that tax is approved by a two-thirds vote of all members of the City Council and the tax s subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.

G. The City Council desires to submit to the City's voters at the Election an ordinance that would continue the tax approved in 2006 and permit the use of tax proceeds for improving and maintaining Nevada City's streets, sidewalks, pathways, drainage, water distribution and sewer collection systems.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY, CALIFORNIA, DOES RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are a substantial part of this resolution.

SECTION 2. The City Council hereby orders, pursuant to Section 9222 of the Elections Code, that the ordinance, attached hereto as Exhibit "A" and incorporated herein by reference, be submitted to the voters at the Election. Adoption of the ordinance requires a two-thirds vote of the qualified voters of the city voting in an election on the issue.

SECTION 3. The question submitted shall appear on the ballot as follows:

Exclusively for the purpose of improving and maintaining Nevada City's streets, sidewalks, pathways, drainage, water distribution and sewer collection systems, shall the City of Nevada City continue to impose and collect, as it has since 2006, a one- half cent per one-dollar retail transactions and use tax (sales tax), providing approximately $550,000 annually until repealed by the voters, and monitored by a citizens' oversight committee?	YES	
	NO	

SECTION 4. The City Clerk is instructed to transmit the Ordinance to the City Attorney along with a request that an impartial analysis be prepared pursuant to Elections Code Section 9280.

SECTION 5. In all particulars not recited in this Resolution, the Election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. Notice of the time and place of holding of the Election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in the time, form, and manner as required by law.

SECTION 7. Pursuant to Section 10400 et seq. of the Elections Code, the Board of Supervisors of Nevada County is requested to consolidate the election on this ballot measure with other elections held on the same day in the County.

SECTION 8. The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.

SECTION 9. Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County elections office to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.

SECTION 10. The City Council authorizes the Mayor, pursuant to Elections Code 9282, to file written arguments in support of the ballot measure contained herein.

Pursuant to Election Code section 9282, arguments in support shall not exceed 300 words in length.

SECTION 11. Rebuttal arguments will be accepted for this measure, and the City Council reiterates its adoption of the provisions of Section 9285 of the Elections Code regarding rebuttals.

SECTION 12. The City Clerk shall file a certified copy of this Resolution with the Board of Supervisors and the County elections office.

SECTION 13. The City Clerk shall certify to the passage and adoption hereof.

APPROVED AND ADOPTED this 8th day of July, 2020.

_____
Erin Minett, Mayor

ATTEST:

_____
_____, Assistant City Clerk
(seal)

APRIL 2020 EDITION

CITY OF NEVADA CITY
INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN
OF
RENEWAL OF ONE-HALF (1/2) CENT
SALES TAX REVENUE

The City of Nevada City fully maintains and operates Streets, Sewer and Water system.:

Nearly 16 years ago the City of Nevada City passed a ½ cent Tax Revenue called Measure 'S' for the rehabilitation and reconstruction of City streets, sidewalks and storm drainage. The program has been a grand success

The majority of the City Street system were constructed to the standards and conditions of the early to mid-20th century with many streets mot meeting today's demands. City Staff has nearly completed the pavement Capital Improvement Plan passed in 2006 and is on the track to pave all the streets per the Capital Improvement Plan by 2023 The report, which was prepared by staff cited that Nevada City's streets had a low pavement condition rating. The average pavement condition rating for the City's streets was low.

City Staff determined that in order to keep its streets in good other the program needs to be continually ongoing. Also, during the last 16 years of work on streets, work had to be delayed because of existing utilities (sewer & water) under streets that needed to be completed before streets could be improved/paved to help the Capital Improvement Plan.

Therefore staff recommends that the City of Nevada City budget $550,000, ½ cent Tax Revenue annually for Infrastructure work. Increasing the annual maintenance budget by $550,000 will improve the overall Infrastructure, slowing the growth of the deferred maintenance backlog, from the current budget. In addition to the need to improve the condition of the City's Infrastructure, there is also a need to maintain and improve streets, storm drainage, sidewalks, parking and sewer and water that are an integral part of the street.

The needed improvements and maintenance on the City of Nevada City Infrastructure far exceed the available revenues for these activities. While the City remains committed to continue efforts to obtain all possible Federal and State funding for improvements, it is apparent that **without** the one-half (1/2) cent sales tax revenue the City will be unable to accomplish its task to maintain the Infrastructure system at a level to adequately serve its citizens.

The City of Nevada City's Infrastructure Capital Improvement Plan for the One-half (1/2) Cent Sales Tax requires the City to prepare a Maintenance and/or Improvement Program" that the sales tax revenues will fund. This plan is also required to be **updated annually**. The City's Plan is a simple one as it proposes to utilize the one-half cent sales tax exclusively for street maintenance and improvement-related purposes. It would follow the recommendations outlined in the Infrastructure Inventory, which was recently prepared by staff. The City of Nevada City only has one goal, and that is to provide the City's public with the best and most efficient infrastructure possible given the existing facilities and the available sales tax funds.

The City of Nevada City Infrastructure Capital Improvement Plan will cover a **10 year period**, which will be the period of the voter approved one-half (1/2) cent sales tax. The City's Capital Improvement Plan will be broken down by priorities reviewed **annually** by the City Council and the Oversite Committee with funds for that year to be expended on the priority items first. In addition the City would set aside funds of the approved one-half (1/2) cent sales tax, annually, to provide matching funds for Federal and State Grants related to Infrastructure Improvement and rehabilitation projects. In addition 5% of the sales tax would be set aside to purchase equipment used in the maintenance of the Public Works System.

The Capital Improvement Plan will be a "**living document**" that should be modified as necessary to provide the desired results. The annual review and evaluation process will entail inviting the public to participate in open discussion and evaluation of any modifications that may be appropriate.

The plan will be revised every **10 years.** At that time, the progress made will be evaluated as well as needs required for the next **10 year period**. At no time will funds be used for needs other than sewer, water, roads drainage, parking and sidewalks related to the Infrastructure. Without special needs the staff will continue its plan per the schedule of work and street inventory.

The initial Infrastructure Capital Improvement Plan for the City of Nevada City will include **three primary elements**:

- Seasonal Maintenance
- Planned Maintenance
- Special Maintenance

1. Seasonal Maintenance will consist of enhanced maintenance activities applicable to seasonal demands on a system wide basis and include such typical tasks as:

    - pothole and surface repairs
    - pavement dig outs and asphalt blankets
    - culvert replacements/improvements
    - crack filling
    - graveling and associated grading on unpaved roads
    - shoulder restoration
    - re-striping, painting and installation of pavement reflector markings
    - maintenance of street signs
    - sewer and water Infrastructure to be improved
    - storm drain cleaning

2 Planned Maintenance will consist of scheduled projects directed at preventative and protective maintenance measures to avoid deterioration. Typical examples would be:

- pavement grinding removal and replacement
- asphalt pavement overlay and rehabilitation projects
- chip seals and other surface treatments
- rock rip-rap protection
- bridge deck and railing replacement
- sidewalk restoration
- shoulder and surrounding landscape restoration

3 Special Maintenance will consist of specifically assigned activities such as:

- maintenance equipment lease, rental, or purchase
- sidewalk and bicycle facility improvements
- bridge replacement/rehabilitation
- public transportation (transit) facility improvements
- sewer lines, water lines and storm drains in areas where roads are to be resurfaced and repaved//repaired/cleaned

CAPITAL PROGRAM
FOR
A TYPICAL 1 YEAR
SEWER/WATER/ROADS

Activity	Estimated Expenditure
Roads Seasonal Maintenance Overlays (Grinding/New pavements Bridge deck maintenance Equipment Street Related Transportation / Sidewalks	$250,000
Sewer New sewer mains New sewer services Sewer Cleaning New sewer manholes Ground restoration erosion control	$125,000
Water New water mains New water services New water valves Line flushing and cleanings Ground restoration erosion control	$125,000

TOTAL REVENUES PROJECTED PER YEAR $500,000

CAPITAL PROGRAM SUMMARY
FOR
TEN (10) YEARS
STREETS

Activity	Estimated Expenditure	Estimated Percentage
Seasonal Road Maintenance / Repair/Reconstruct	$500,000	20.0%
Planned Road Maintenance / Repair / Reconstruct Erosion Control	$1,500,000	60.0%
Bridge Maintenance / Repair	$125,000	5.0%
Maintenance Equipment / Street Related Lease/Rental/Purchase	$250,000	10.0%
Bicycle, Sidewalk / ADA Compliant	$125,000	5.0%
Total	$2,500,000	100%

CAPITAL PROGRAM SUMMARY
FOR
TEN (10) YEARS
SEWER

Activity	Estimated Expenditure	Estimated Percentage
New Manholes Repair/Replace	$125,000	10.0%
New Mains Repair/Replace	$843,750	67.5%
Backflow device	$31,250	2.5%
New services, Repair/replace	$125,000	10.0%
I & I Improvements	$62,500	5.0%
Cleaning & Maintenance	$62,500	5.0%
Total	$1250,000	100%

CAPITAL PROGRAM SUMMARY
FOR
TEN (10) YEARS
WATER

Activity	Estimated Expenditure	Estimated Percentage
Water Meter/Services, Repair/Replace	$125,000	10.0%
Water Mains, Repair/Replace	$687,500	55.0%
Water Boxes (B-16), Replace	$125,000	10.0%
Fire Hydrants, New/Replace	$62,500	5.0%
Water Valves Maintenance, New/ Replace	$187,500	15.0%
Leak Detections/Repair	$62,500	5.0%
Total	$1,125,000	100%

TO: City council

FROM; City Engineering Staff

SUBJECT: Infrastructure Inventory

Street	Limits	Lin. Ft.	Width	Key
1. Adams St.	Prospect to Clay	900	30	L, K, Q, B
2. Alexander St.	Main to Coyote	900	20	K ,F, H
3. Airport Rd..	City Portion	1,800	24	K, Q
4. American Hi.	Bennett to City Limits	1,800	16	K, M, B
5. Argall Wy.	Zion to Searls	750	35	Q, S
6. Austin St.	Drummond to American Hill	700	30	Q
7. B St.	Nevada to Uren	800	15	E, I, H, B
8. Beckman Ln.	E Broad to End	700	12	I, Q
9. Bennett St.	Broad to Monroe	1,600	16	N, K
10. Bost Av.	Searls to New Mohawk	600	16	Q, L, B
11. Boulder St.	Plaza to City Limits	1,800	35	N, P, A
12. Bourbon Hi.	Nevada to Uren	900	30	Q, F
13. Bridge St.	Broad to End	700	11	F, Q
14 .Bridge Wy.	Searls to End	1,000	20	Private
15. E. Broad St.	"Y" to Hy. 49	2,000	30	N, P, A, J
16. W. Broad St.	"Y" to Hy. 49 Surface	2,000	30	N, P, A
17. Broad St.	Plaza	1,900	40	N, P, C
18. Broad St. Br.	Bridge	200	36	R, I
19. Brock Rd.	Hoover to Zion	1,600	25	F, G, E
20. Cabin St.	S. Pine to End	100	10	T, Q
21. Cement Hi.	Hwy 49 to Wet Hill	800	35	Q, B
22. Cement Hi.	P.Lot Hirshman's	250	50	K
23. Chief Kelly Dr.	American Hill to W Broad	1,200	20	K, Q
24. Church St.	Coyote to N Pine	500	30	B, N, Q
25. Clark St.	S Pine to Sacramento	600	25	A, N, K , Q
26. Clay St.	Turpentine to 4-Corners	900	30	K, Q, B
27. Clay St.	Turpentine to Prospect	1,600	20	N, A, E, L, M, F
28. Commercial St.	Union to Broad	1,100	20	N, A, E, L, M, F
28. Commercial Parking Lot		60	500	B, Q, K
30. Cottage St.	Main to Broad	900	30	N, B, Q
31. Court St	Coyote to Main	300	15	Q, B
32. Coyote St.	Union to Hy. 49	2,000	30	A, Q, N
33. Cross St.	S. Pine to Jordan	700	14	Q, B, K, N
34. Dean Al.	Coyote to End	500	12	Q, B, K
35. Doane Rd.	Lindley to Zion	250	16	B, Q
36. Drummond St.	Monroe to End	900	12	Q, B, K
37. Factory St.	Bridge to Wyoming	400	10	K, Q, B, E
38. Finley St.	W Broad to Spring	100	12	B, Q
39. Galena Wy.	Long to Turpentine	600	25	Q, S, N, B
40. Gethsemane St.	S Pine to Zion	800	25	K, B, N
41. Giles St.	Drummond to End	150	20	Gravel
42. Gold Flat Ct.	New Mohawk to End	150	40	B, I
43. Gold Flat Rd	Gracie to Hollow	6,500	25	A, B, H, I, K, N
44. Gold Nugget Ct.	Nimrod to End	150	24	Private
45. Gold Tunnel Dr.	American Hill to End	350	12	B, N
46. Gracie Rd.	Clay to City Limits	600	30	B, Q
47. Great Oak Ct.	Parkside to End	100	30	Private
48. Grove St	Nevada to End	2,000	14	E, K, H, Q
49. Hallwood Ln.	Hollow Way to End	300	20	Private

Street	Limits	Lin. Ft.	Width	Key
50. Heilman Ct.	Reward to End	600	30	B, I
51. Helling Wy	Maidu to End	400	26	Private
52. High St.	Nevada to Washington	600	22	L, M, B, N
53. Hollow Wy.	Gold Flat to End	1,500	40	N, K, J
54. Hoffman St.	Nevada to Uren	200	20	B, Q
55. Hoover Ln.	Lindley to End	2,500	24	Private
56. Jordan St.	S Pine to End	2,800	16	Q, B, N, K, H
57. Kidder Ct.	Bost to End	200	20	B
58. King Hiram Dr.	Searls to End	900	24	Private
59. Lindley Av.	Brock to End	900	12	B, Q, E, F
60. Little Deer Crk	Sacramento to Nimrod	1,000	8	Q, K
61. Long St.	Adams to Martin	2,000	25	Q, S, B, N
62. Lost Hill Ct.	American Hill to End	400	24	Private
63. Lower G.V. Rd.	Ridge to End	1,600	30	B, K, N, T
64. Maidu Av	Hy 49 to End	1,000	40	Private
65. Manzanita Ln.	Nevada to End	300	20	Private
66. Max Solaro Dr.	Nimrod to Park Ave.	600	30	B, Q
67. Mt. Calvary St.	Cross to Zion	500	20	Q, B
68. Main St.	Cottage to Union	1,300	30	B, N, Q
69. Main St.	Cottage to E Broad	1,200	35	N, P, O, B
70. Martin St.	Clay to End	800	12	Q, E, F, B
71. Mill St.	Broad to Factory	200	20	N, L, M, Q, A
72. Mine Rock Rd.	Searls to End	450	14	Private
73. Mother Lode Ct.	American Hill to End	400	200	Private
74. Monroe St.	American Hill to Drummond	600	16	K, N, Q, B
75. National Al.	Broad to Spring	100	12	B
76. Nevada City Hy.	Zion to City Limits	1,000	30	K, E, F, G, B
77. Nevada St.	Willow Valley to Hwy. 20	1,800	40	N, K, I, B
78. Nevada St.	Plaza to Washington	900	30	N, B
79. Nevada St.	Washington to Willow Valley	1,500	30	N, B
80. Nevada St.	Parking Lot	60	300	B
81. New Mohawk Rd.	Bost to Gold Flat	1000	30	K, N, B
82. Nihell St	Nevada to End	1,600	20	N, B,W, K
83. Nile St.	Adams to Nimrod	600	30	B, Q
84. Nimrod St.	Park to Gracie	2,700	35	B, N
85. Nimrod St.	Parking Lot	200.	100	B
86. Nivens Ln.	E. Broad to City Limits	450	15	B, K, N, J
87. Nursery St.	Nevada to Willow Valley	1,200	20	K, N, B Q
88. Old Washington	Nevada to City Limits	450	18	K, B, Q
89. Old Downieville	Monroe to End	700	20	K, B, N, D
90. Orchard St	E. Broad to Hy 49	900	30	K, J, B
91. Park Av.	Boulder to City limits	600	30	
92. Parkside Pl.	Nimrod to End	450	18	Private
93. Perseverance Mine	Searls to Searls Loop	500	16	K, B, N
94. Pine St. Br.	Surface Reseal	800	24	R, I, G
95. N. Pine St.	Broad to E. Broad	2,200	25	E, F, G, B, N
96. S. Pine St.	Sacramento to Broad	2,100	30	N, B, Q
97. Prospect Ct.	Clay to Clay Loop	600	15	Q, B
98. Prospect St.	Adams to Clay	1,800	16	N, Q, B
99. Providence Mine	Zion to GV Group	1,600	36	Q, B, N
100. Railroad Av.	Sacramento to Gold Flat	2,600	16	N, O, B, Q, K, E, F
101. Redbud Wy.	Chief Kelly to End	700	24	Private
102. Reward St.	Zion to End	600	20	H, K, A, N
103. Ridge Rd	Searls to City Limits	2,600	25	K, B
104. Rose Ln.	Coyote to End	200	12	Gravel

Street	Limits	Lin. Ft.	Width	Key
105. Sacramento St	Plaza to Zion	2,500	24	N, Q, P, B, A
106. School St.	N Pine to Cottage	750	10	L, M, Q, E, B
107. Searls Av.	Sacramento to Ridge	4,400	30	N, O, P, B, N
108. Silva Av.	Nimrod to End	700	10	Q, S, B
109. Spring St.	Nat'l Alley to W. Broad	2,000	30	Q, B, I, H
110. Spring St.	Parking Lot	300	100	A, N, Q
111. Sylvan Rd.	Lindley to End	60	16	Q, B
112. Tribulation Tr.	Jordan to S. Pine	400	6	N, J
113. Turpentine Dr.	Long to Clay	700	25	N, Q, S, B
114. Union St.	Broad to Main	200	28	C, Q
115. Upper Park Av.	Boulder to End	350	12	Q, B
116. Uren St.	B to Bourbon Hill	2,000	25	Q, N, B, K, I
117. Valley St.	Sacramento to Searls	350	25	B, Q
118. Walrath Av.	Searls to Zion	400	20	B, Q, E
119. Washington St.	S Pine to Nevada	1,300	25	Q, B, H, N
120. Willow Valley Rd	Nevada to City Limits	600	30	N, B, F
121. Winter St.	Washington to Cottage	200	12	H, B
122. Woodpecker Ln.	Reward to End	600	12	K, Q
123. Woods Ct.	Railroad to End	250	24	Private
124. Wyoming Rd.	Factory to Old Downieville	1,000	16	Gravel
125. York St.	Broad to S Pine	400	16	C Portion
126. Zion St.	Sacramento to Jordan	1,200	40	H, Q, B
127. Zion St.	Providence Mine to Sacramento	3,000	40	A, I, Q
128. Zion St.	Public Works Yard	5,000	100	A, H

KEY

STREETS

A = street grind and/or overlay
B = pavement/repair/replace/new
C = rebuild entire street
D = parking improvements

SEWER

E = sewer line repair/replace/new
F = sewer line, manholes/service repair/replace/new
G = sewer line cleaning

STORM DRAINS

H= new storm drain repair/replace/new
I = storm drains/clean/repair/replace/new
J = French drains/repair/replace/new
K = ditch cleaning repair/replace/new

WATER

L= water mains, repair/replace/new
M = valves, hydrants, repair/replace/new

SIDEWALKS

N =repair ADA, repair/replace/new
O =retaining walls. Rock, concrete, repair/replace
P = safety rails repair/replace/new

MISCELLANEOUS

Q= brush cleaning/vegetation control
R = bridge deck repair/replace
S = tree removal/INFRASTRUCTURE
T = erosion control

REPORT TO CITY COUNCIL

July 8, 2020

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

TITLE: Ordinance Amendment for the Regulation of Accessory Dwelling Units

RECOMMENDATION: Waive reading of Ordinance, read title only and introduce for first reading, Ordinance 2020-XX to amend Section 17.72.026 and Section 17.72.027 in order to update the City's Accessory Dwelling Unit (ADU) Ordinance pertaining to height limits of ADUs within the multifamily zoning designation.

1. Find that Draft Ordinance 2020-XX is Exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Sections 15282(h), 15303, 15305, and 15061.
2. Approve first reading of Ordinance 2020-XX to amend Sections 17.72.026(B)(2.b), 17.72.027(A)(2.b), and 17.72.026(F) in order to update the City's Ordinance pertaining to Accessory Dwelling Units.

CONTACT: Amy Wolfson, City Planner
Crystal Hodgson, City Attorney

BACKGROUND / DISCUSSION:
At the January 22, 2020 City Council meeting, the City Council adopted an Ordinance pertaining to Accessory Dwelling Units (ADUs) amending Section 17.72.020 through Section 17.72.038 of the City Municipal Code in order to comply with adopted State legislation. In May 2020, staff received a request by a property owner to construct a small second unit above an existing garage on an existing multi-family lot. Existing regulations require ADU's on a multi-family lot to be under 16-feet in height, while single-family lots may have an ADU that extends up to 35-feet if built above a garage, not to exceed the height of the primary residence.

DRAFT ORDINANCE AMENDMENT (Accessory Dwelling Unit Ordinance): Staff is recommending that similar consideration for height be applied to ADUs on multi-family lots, particularly for those units being placed above a garage or carport and those that otherwise meet site development standards including setback standards. This requires amendment to sections 17.72.026(B)(2.b) and 17.72.027(A)(2.b) of the existing Municipal Code. Below is a redlined copy of the text showing the amendments. A copy of the full proposed amended Ordinance is attached to the staff report.

2. For lots with existing multi-family residential dwellings:
   a. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as accessory dwelling units constructed within the non-livable space of the existing building provided that applicable building codes are met; or
   b. Up to two (2) of either of the follow types of units: a detached accessory dwelling unit~~s~~ or a new construction attached unit that adds square footage to the footprint of an existing building may be constructed, ~~No more than two detached accessory dwelling units,~~ provided that ~~no~~ such unit shall ~~be more than~~not exceed sixteen (16) feet in height, and must has~~ve~~ a minimum of four-foot side and rear yard setbacks. If such a unit complies with standard setbacks of the zoning designation, then a newly constructed unit may be constructed over an existing, permitted garage or carport~~-~~, not to exceed twenty-five feet (25') in height. The maximum square footage of detached accessory dwelling units on lots with existing multi-family residential dwellings shall comply with the limits set forth in Section 17.72.024.

The City Attorney also wanted to take the amendment opportunity to clarify section 17.72.026 (F), pertaining to owner-occupancy limitations, with a clarifying statement that this requirement will not apply to multi-family lots which are not expected to have owner-occupied units now or in the future (amended language in blue below).

F. Occupancy. Until January 1, 2025, the City shall not impose an owner-occupancy requirement on any newly permitted accessory dwelling unit on a lot with a single family dwelling. After that date this prohibition shall no longer be of force and effect unless otherwise prohibited by state law, and one of the units on the property must be occupied by the property owner. The city shall require the property owner to file a deed restriction outlining the owner-occupancy requirement. The purpose of the deed restriction is to create a perpetual notice to the new purchasers of the requirement to maintain the owner-occupancy requirement. This requirement shall not apply to lots zoned for multifamily residential use.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission reviewed the draft Ordinance amendment at their June 25, 2020 special meeting. They recommended approval of the amendments with a 5-0 vote.

ENVIRONMENTAL CONSIDERATIONS: The state legislature created a specific exemption to CEQA for adoption of ordinances to regulate accessory dwelling units in compliance with state law, found in CEQA Guidelines Section 15282(h) and in Public Resources Code Section21080.17. The ordinance is also exempt from review under CEQA Guidelines Sections 15303 (new construction of small structures), 15305 (minor alterations to land), and 15061, because this ordinance will not have a significant effect on the environment, as ADUs will largely constitute infill housing which is exempt from CEQA.

FISCAL IMPACT: There is no fiscal impact related to the proposed changes.

ATTACHMENTS:
- ✓ Resolution No.2020-XX, Finding the Ordinance Exempt from CEQA
- ✓ Ordinance No. 2020-XX, Amended ADU Ordinance

RESOLUTION 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA APPROVING OF A NOTICE OF EXEMPTION

(Ordinance 2020-XX to amend Sections 17.72.026(B)(2.b), 17.72.027(A)(2.b), and 17.72.026(F) in order to update the City's Ordinance pertaining to Accessory Dwelling Units)

WHEREAS, Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city, town or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

WHEREAS, Even if adoption of the ordinance is considered a "Project" also categorically exempt from review under CEQA Guidelines Sections 15303 (new construction of small structures), 15305 (minor alterations to land), and 15061, because this ordinance will not have a significant effect on the environment, as ADUs will largely constitute infill housing which is exempt from CEQA.

WHEREAS, a Notice of Exemption has been prepared for the Project; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City as follows:

Section 1. Based on the review and determination of the City Council, the City Council of the City of Nevada City finds that the Project is exempt from review under the California Environmental Quality Act.

Section 2. The Notice of Exemption attached hereto as Exhibit 1 is recommended for approval for the Project.

Section 3. Upon approval of the Project by the City Council, the City Clerk may file the Notice of Exemption with the County Clerk of Nevada County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of Section 21152(b) of the Public Resources Code and the State EIR Guidelines adopted pursuant thereto.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada City at a public meeting held on the 8th of July 2020, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

_____

ERIN MINETT, MAYOR

ATTEST:

_____

Niel Locke, City Clerk

APPROVED AS TO FORM

_____

Crystal Hodgson, City Attorney

NOTICE OF EXEMPTION

TO: ☐ **Office of Planning and Research**
1400 Tenth Street
Sacramento, CA 95814

☐ **Nevada County Clerk/Recorder's Office**
Environmental Filings
Eric W. Rood Administrative Center
950 Maidu Avenue, Nevada City CA 95959

FROM: City of Nevada City
317 Broad Street
Nevada City, CA 95959

Project Title: Ordinance 2020-XX to amend Sections 17.72.026(B)(2.b), 17.72.027(A)(2.b), and 17.72.026(F) in order to update the City's Ordinance pertaining to Accessory Dwelling Units

Project Address: 317 Broad Street, Nevada City, California 95959

Project Location – City: City of Nevada City

Project Location – County: Nevada

Project Description: The ordinance amends the Nevada City Municipal Code to allow for ADUs constructed over garages to be 35' in height, and to allow for multifamily properties to build up to two detached or newly built attached units, which option was previously limited to up to two detached units.

Name of Public Agency Approving Project: City of Nevada City

Name of Person or Agency Carrying Out Project: City of Nevada City

Exempt Status: (Check One)

_____ Ministerial (Section 21080(b)(1); 15268);

_____ Declared Emergency (Section 21080(b)(3); 15269(a));

_____ Emergency Project (Section 21080(b)(4); 15269(b)(c));

_____ "Common Sense" Exception (Section 15061(b)(3))

__X__ Categorical Exemption. Type and section numbers: *15301, 15303, 15061*

__X__ Statutory Exemptions. State code number: *21080.17*

Reasons why project is exempt: Under California Public Resources Code section 21080.17, the California Environmental Quality Act ("CEQA") does not apply to the adoption of an ordinance by a city, town or county implementing the provisions of section 65852.2 of the Government Code, which is California's ADU law and which also regulates JADUs, as defined by section 65852.22. Therefore, the proposed ordinance is statutorily exempt from CEQA in that the proposed ordinance implements the State's ADU law.

Even if adoption of the ordinance is considered a "Project" also categorically exempt from review under CEQA Guidelines Sections 15303 (new construction of small structures), 15305 (minor alterations to land), and 15061, because this ordinance will not have a significant effect on the environment, as ADUs will largely constitute infill housing which is exempt from CEQA.

Lead Agency Contact Person: Amy Wolfson, City Planner **Number:** 530-265-2496x130

Signature & Title: _____ **Date:** _____

☐ **Signed by Lead Agency** ☐ **Signed by Applicant** **Date received for filing:** _____

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING NEVADA CITY MUNICIPAL CODE SECTIONS 17.72.026 AND 17.72.027 IN ORDER TO UPDATE THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS

WHEREAS, the City of Nevada City, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and regulation of accessory dwelling units ("ADUs") and junior accessory dwelling units ("JADUs"); and

WHEREAS, in 2017 and 2019, the California Legislature approved, and the Governor signed into law a number of bills ("New ADU Laws") that, among other things, amended Government Code section 65852.2 and 65852.22 to impose new limits on local authority to regulate ADUs and JADUs; and

WHEREAS, in January of 2020, the City Council passed Ordinance No. 2020-01 which revised Chapter 17.72 of the Nevada City Municipal Code regulating the construction of Accessory Dwelling Units and Junior Accessory Dwelling Units consistent with the New ADU Laws; and

WHEREAS, the City Council desires to adopt additional changes to Sections 17.72.026 and 17.72.027 of Chapter 17.72 of the Nevada City Municipal Code in order to allow for the construction of up to two detached or attached accessory dwelling units on lots containing legal multi-family units, which is permitted under the New ADU Laws, and to make other clarifications of the new regulations' application to multi-family units; and

WHEREAS, the City Council held a duly-noticed public hearing for a first reading on _____, 2020, and a second reading on _____, 2020 and considered the staff report, recommendations by staff, recommendations by the Planning Commission, and public testimony concerning the proposed ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.72.026 of the Nevada City Municipal Code shall be amended to read as follows:

"17.72.026 - Accessory dwelling units—Development standards.

Any permit for an accessory dwelling unit shall be subject to the development standards listed below.

A. Legal lot/residence. An accessory dwelling unit shall only be allowed on a lot within the city that contains a legal, single-family or multi-family residence as an existing or proposed primary unit on a lot.

B. Number of accessory dwelling units per lot.

1. For lots with proposed or existing single-family residences, no more than one (1) attached or detached accessory dwelling unit shall be permitted on the lot.
    a. Notwithstanding the above, a lot with a single-family residence may have one (1) junior accessory dwelling unit and (1) detached accessory dwelling unit.
2. For lots with existing multi-family residential dwellings:
    a. No more than twenty-five percent (25%) of the number of the existing units, but at least one (1) unit, shall be permitted as accessory dwelling units constructed within the non-livable space of the existing building provided that applicable building codes are met; or
    b. Up to two (2) of either of the follow types of units: a detached accessory dwelling unit or a new construction attached unit that adds square footage to the footprint of an existing building may be constructed, provided that such unit shall not exceed sixteen (16) feet in height, and must has a minimum of four-foot side and rear yard setbacks. If such a unit complies with standard setbacks of the zoning designation, then a newly constructed unit may be constructed over an existing, permitted garage or carport, not to exceed twenty-five feet (25') in height. The maximum square footage of detached accessory dwelling units on lots with existing multi-family residential dwellings shall comply with the limits set forth in Section 17.72.024.

C. Building Code Compliance. All new accessory dwelling units must satisfy the requirements contained in the building code and fire code as currently adopted by the city, including applicable energy efficiency standards associated with Title 24 of the California Code of Regulations. However, fire sprinklers shall not be required if they are not required for the primary residence.

D. Fees and Charges.

1. City/public utilities.
    a. All accessory dwelling units must be connected to public utilities, including water, electric, and sewer services.
    b. Except as provided in subsection c below, the City may require the installation of a new or separate utility connection between the accessory dwelling unit and the utility. The connection fee or capacity charge shall be proportionate to the burden of the proposed accessory dwelling unit based on either its square feet or number of drainage fixture unit values.
    c. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-family dwelling, unless the accessory dwelling unit is being constructed in connection with a new single-family dwelling.

d. Regardless of where it is located, for the purposes of calculating utility connection fees or capacity charges, accessory dwelling units shall not be considered a new residential use unless the accessory dwelling unit was constructed with a new single-family dwelling.

2. Impact Fees.
   a. For accessory dwelling units of seven hundred fifty (750) square feet or larger, all impact fees applicable to accessory dwelling unit's construction shall be paid to the city in amounts proportional to the size of the accessory dwelling unit relative to the square footage of the primary dwelling unit.
   b. For accessory dwelling units seven hundred forty-nine (749) square feet or smaller, no impact fees shall be charged, unless otherwise allowed by state law.
   c. For purposes of this subsection, "impact fee" has the same meaning as specified in Government Code section 66000(b) and also includes in-lieu park fees as specified in Government Code section 66477.
3. Application Fees. Application fees for an accessory dwelling unit shall be paid in an amount specified by resolution of the City Council.
4. Exception for lower income housing. Newly permitted accessory dwelling units shall not be required to pay application, or sewer and water hookup fees if accompanied by a deed restriction ensuring affordable rent to low or very low income household, as defined in Sections 50105 and 50079.5 of the California Health and Safety Code. Said deed restriction shall be effective for a minimum of 30 years. (2003 Housing Element Policy 2b).

E. Parking.
1. The City shall not require the owner to provide more than one additional parking space per accessory dwelling unit or per bedroom, whichever is less. The required parking space may be provided as:
   a. Tandem parking on an existing driveway; or
   b. Within a setback area or as tandem parking in locations determined feasible by the City for such use. Locations will be determined infeasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the City.
2. No parking shall be required for a studio accessory dwelling unit that does not have a separate bedroom.
3. Notwithstanding the foregoing, no parking spaces shall be required for accessory dwelling units in the following instances:

   a. It is located within one-half mile walking distance of public transit;
   b. It is located within an architecturally and historically significant district;
   c. It is part of a proposed or existing primary residence or an accessory structure;
   d. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or

e. Where there is a car share vehicle located within one block of the accessory dwelling unit.

4. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the off-street parking spaces do not have to be replaced.

F. Occupancy. Until January 1, 2025, the City shall not impose an owner-occupancy requirement on any newly permitted accessory dwelling unit on a lot with a single family dwelling. After that date this prohibition shall no longer be of force and effect unless otherwise prohibited by state law, and one of the units on the property must be occupied by the property owner. The city shall require the property owner to file a deed restriction outlining the owner-occupancy requirement. The purpose of the deed restriction is to create a perpetual notice to the new purchasers of the requirement to maintain the owner-occupancy requirement. This requirement shall not apply to lots zoned for multifamily residential use.

G. Prohibition on separate sale of accessory dwelling unit. Accessory dwelling units may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

H. Conversion of existing primary unit. An existing primary dwelling may be converted to a dwelling unit if it complies with all applicable requirements of this ordinance. If so, a new, larger primary residence may be constructed.

I. Design requirements for new units. All new accessory dwelling units must comply with the following design requirements:

1. The materials, colors, and architecture shall be similar to and compatible with those of the primary unit.
2. Accessory dwelling units shall not exceed16-feet in height unless constructed over a garage, in which case the ADU shall not exceed the height of the primary residence or 35-feet
3. Accessory dwelling unit entrances shall be oriented to face the street except that if topographic or other site constraints prevent such orientation, the entrance shall be screened from neighboring properties.
4. Lighting shall not spill on to neighboring lots.

J. Accessibility standards. New construction of any ground level accessory dwelling unit shall be designed and constructed to allow for disability/accessibility standards. Plans shall demonstrate future entrance capability and actual construction shall include adequate door and hallway widths, maneuvering space in kitchens and bathrooms, and structural reinforcements for grab bars.

K. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

L. For residential development, the garage door shall remain in place and look functional, or the garage door shall be removed. If the door is removed, the project shall include architectural features (including siding, doors, windows, trim and accent details), and landscaping (such as a landscape strip to disconnect the driveway from the building

wall) so it is not apparent that the structure was originally a garage.

M. Any ADU taking advantage of reduced setbacks pursuant to Section 17.72.027 shall not have doors or windows within such setback unless required to meet health and safety requirements

N. Limitation on Use as a Hosted Short-term Rental: The following types of accessory dwelling units shall not be permitted to operate as a hosted short-term rental pursuant to Chapter 17.72.080.

1. Any detached accessory dwelling unit in excess of 800 square feet;
2. Any attached unit in excess of 640 square feet; or
3. Any unit permitted under the provisions allowed by Section 17.72.027.

O. Setback requirements.

1. No setbacks are required for accessory dwelling units that are created by converting existing living area or existing accessory structures to new accessory dwelling units or constructing new accessory dwelling units in the same location and to the same dimensions as an existing structure.
2. For all other accessory dwelling units, there must be a minimum of four feet from side and rear lot lines, and comply with all other applicable front yard setbacks.
3. Any ADU or JADU that does not meet the setback standards of the base zoning designation shall not be permitted to utilize yard exceptions pursuant to Section 17.84.040 or be permitted for any further projections into side or rear yards pursuant to Section 17.84.050

P. A detached ADU may include an attached unconditioned garage that does not exceed 250 square feet."

SECTION 2. Section 17.72.027 of the Nevada City Municipal Code shall be amended to read as follows:

"17.72.027- Accessory dwelling units—Permitted regardless of compliance with other development standards and regulations.

A. Accessory dwelling unit permits shall be approved for the following types of accessory dwelling units, regardless of whether the application meets the development standards contained in this Title 17

1. For lots with single family dwellings, one of the following:

a. One interior accessory dwelling unit or one junior accessory dwelling unit per lot constructed within an existing or proposed single-family or accessory structure, including the construction of up to a one hundred fifty (150) square foot expansion beyond the same physical dimensions as the existing accessory dwelling structure to accommodate ingress and egress. The accessory dwelling unit or junior accessory dwelling unit must have exterior access and side and rear setbacks sufficient for fire safety. If the unit is a junior accessory dwelling unit, it must also comply with the requirements of section 17.72.032 below; or

b. One new, detached accessory dwelling unit with a minimum four-foot side and rear setbacks, up to eight hundred (800) square feet and no more than sixteen (16) feet high on a lot with an existing or proposed single family dwelling. A junior accessory dwelling unit may also be built within the existing or proposed dwelling of such residence in connection with the accessory dwelling unit.

2. For lots with existing multifamily dwellings:

a. Accessory dwelling units may be constructed in areas that are not used as livable space within an existing multi-family dwelling structure (i.e., storage rooms, boiler rooms, passageways, attics, basements, or garages), provided the spaces meet state building standards for dwellings. The number of interior accessory dwelling units permitted on the lot shall not exceed twenty-five percent (25%) of the current number of units of the multi-family complex on the lot and at least one such unit shall be allowed. Units constructed pursuant to this subsection shall not exceed eight hundred (800) square feet in floor area; and

b. Up to two (2) of either of the follow types of units: a detached accessory dwelling unit or a new construction attached unit that adds square footage to the footprint of an existing building may be constructed, provided they, do not exceed eight hundred (800) square feet in floor area, are no taller than sixteen (16) feet, and they have at least four (4) feet of side and rear yard setbacks.

B. Accessory dwelling units approved under this Section 17.72.027 shall not be rented for a term of less than thirty (30) days.

C. Accessory dwelling units or junior accessory dwelling units approved under this Section 17.72.027 shall not be required to correct legal nonconforming zoning conditions."

SECTION 3. CEQA. This Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15061 because CEQA only applies to projects which have the potential to have a significant impact on the environment and because the environmental impact of each individual project will be analyzed at the time that the project is submitted. There are no impacts of this ordinance which have the potential to cumulatively cause a significant effect on the environment because the city is so small, and it is not anticipated that there will be enough facilities to cause such an impact.

SECTION 4. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION 5. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 6. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED this _____th day of _____2020 by the following vote:

AYES:
NOES:
ABSENT:
ATTEST:

_____
ERIN MINETT, MAYOR

_____
Niel Locke, City Clerk

APPROVED AS TO FORM

_____
Crystal Hodgson, City Attorney

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: An Ordinance of the City of Nevada City Repealing and Reenacting Chapter 13.08 of the Nevada City Municipal Code Regulating the City's Sewer System

RECOMMENDATION: After holding a public hearing, approve for introduction and first reading of Ordinance by title only, waiving further reading of the entire Ordinance.

CONTACT: Bryan McAlister, City Engineer
Crystal Hodgson, Consulting City Attorney

BACKGROUND / DISCUSSION:
Nevada City Wastewater Treatment Plant operates in compliance with a California Regional Water Quality Control Board permit which includes waste discharge effluent limitations and self-monitoring provisions. This permit is renewed every five years as required by U.S. Environmental Protection Agency (U.S. EPA) and the California Regional Water Quality Control Board, Central Valley Region for wastewater treatment and discharge. The permit currently in effect is ORDER R5-2017-0060 NPDES NO. CA0079901.

Chapter 13.08 of the Nevada City Municipal Code regulating the City's Sewer System is proposed to be repealed and reenacted to comply with current requirements for the above referenced permit. This includes provisions for industrial discharges; fats oils and grease from food service establishments; and pre-treatment where necessary to limit or eliminate discharges of waste constituents that negatively affect the City's ability to treat the wastewater in compliance with its permit.

ENVIRONMENTAL IMPACT: None

FISCAL IMPACT: None.

ATTACHMENTS:
- ✓ Proposed City Ordinance No. 2020-XX repealing and reenacting Chapter 13.08 of the Nevada City Municipal Code regulating the City's Sewer System

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY REPEALING AND REENACTING CHAPTER 13.08 OF THE NEVADA CITY MUNICIPAL CODE REGULATING THE CITY'S SEWER SYSTEM

WHEREAS, Chapter 13.08 "Sewer System" of the City Municipal Code regulates discharges into the city sewer system, requires a discharge permit and/or requires pretreatment of certain waste products before they may be discharged into the City's sewer system; and

WHEREAS, the City Council desires to update Chapter 13.08 to provide new and updated regulations to protect the City's sewer system and to maximize the City's ability to safely and efficiently maintain the system at the lowest costs possible for residents.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

SECTION I: Chapter 13.08 Repealed and Reenacted.

Nevada City Municipal Code Chapter 13.08, entitled "Sewer System" shall be repealed in its entirely and reenacted to read as follows:

"CHAPTER 13.08 SEWER SYSTEM

13.08.010 - Definitions.

The following terms, as used in this chapter, shall have the following respective meanings:

"Applicant" or "person" means any person, partnership, corporation, club, association, public corporation, political subdivision, county, the state, the United States of America or any department or agency thereof.

"Building sewer" means that part of the sanitary sewer system which receives discharge from soil and waste pipes in a building and conveys it to the junction with the service sewer at the property line or sewer easement line.

"BOD" means biological oxygen demand, indicating the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five consecutive days at twenty (20) degrees centigrade.

"City" means the City of Nevada City.

"City council" means the City council of the City of Nevada City.

"Combined sewer" means a sewer that services the purpose of both a sanitary sewer and a storm sewer.

"Connection" means the physical hookup from a parcel of land to a sewer line regardless of the number of units or use on that parcel of land.

"Connection fee" is a previously used term for "sewer impact fee," used to determine the fair share costs to finance planning, design, construction inspection, administrative, debt service, debt covenant and other related costs for wastewater conveyance, treatment and disposal facilities for sewerage system expansion.

"Department of public works" means the department of public works of the City of Nevada City.

"Equivalent dwelling unit (EDU)" is a term used to characterize the average wastewater discharge from a single-family dwelling (SFD). For purposes of calculating sewerage system design parameters and comparing wastewater discharge from sewer service users other than Single Family Dwellings, one EDU equals a domestic wastewater volume of two hundred (200) gallons per day (GPD) and one hundred eighty milligrams per liter (180 mg/l) maximum each, BOD and TSS, per day at average dry weather flow rates. One EDU is further considered to generate domestic wastewater, carrying a minimal to moderate load of non-hazardous contaminants such as common household cleaning and maintenance products.

"Industrial user" means any user which meets one or more of the following criteria:

1. Any discharge of five thousand (5,000) gallons or more of wastewater per day (excluding the domestic portion of the discharge) or more than 7.5 pounds of biochemical oxygen demand (BOD) or total suspended solids (TSS) per day (five thousand gallons at 180 mg/l);
2. Discharges wastewater to a Publicly Owned Treatment Works (POTW), which contains hazardous materials in sufficient quantity either singly or by interaction with other wastes, to constitute a potential hazard to humans or animals, to potentially cause interference or create a public nuisance or create any hazard in or have an adverse effect on the waters receiving any discharge from the POTW;
3. Discharges wastewater to a Publicly Owned Treatment Works (POTW), which contains any concentrations of Metals, Nitrite, Nitrate, Ammonia or Organic Nitrogen of any form or combination thereof that requires additional treatment at the POTW.
4. Is subject to EPA categorical pretreatment standards or any pretreatment standards set by the state;
5. Is required to obtain an industrial wastewater discharge permit pursuant to this chapter.

“FOG” means Fats, Oils and Grease including any substance such as a vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

"Industrial waste" means the waterborne waste and wastewater from any industrial user.

"Sewage" means the wastewater derived from the human habitation and use of buildings for residential, institutional or commercial purposes, excluding storm waters and industrial waste.

"Sewer lateral line" means a sewer line with no more than three (3) authorized connections before connecting with a sewer main line.

"Sewer main line" means a sewer line with four (4) or more authorized connections.

"TSS" means total suspended solids, defined as solids that either float on the surface of or are in suspension in, wastewater and which are largely removable by standard laboratory filtration procedures.

"Waste" means and includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal origin or from any commercial, producing, manufacturing or processing operation of whatever nature.

"Wastewater" means all wastes and waters considered for and/or discharged to and carried by the City sewerage system.

13.08.085 - Responsibility for maintenance and repair of sewer lines.

All expenses with respect to sewer lateral lines, including without limitation, installation, maintenance and repair, shall be borne by and be the obligation of the landowners of properties with connections to that sewer lateral line. The City is responsible only for sewer main lines, not for sewer lateral lines.

13.08.090 - Prohibited discharges.

A. No person shall discharge or cause to be discharged any rainwater, stormwater, groundwater, street drainage, subsurface drainage, yard drainage or other sources of inflow including cooling water or unpolluted industrial process water, into any sewer facility which is directly or indirectly connected to the sewage facilities of the City. Stormwater and all other unpolluted water shall be discharged to such pipelines as are specifically designated as storm drains, or to a natural outlet approved by the City manager.

B. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters to any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred forty (140) degrees Fahrenheit;

2. Any waste or water which contains more than one hundred (100) milligrams per liter of fat, oil or grease;

3. Any water or waste having a pH lower than 6.0 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works;

4. Any waste or water which contains a concentration of more than one hundred eighty milligrams per liter (180 mg/l) maximum each, BOD and TSS, unless otherwise authorized with an industrial wastewater discharge permit;

5. Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create a hazard in the receiving waters of the City's Publicly Owned Treatment Works (POTW) (sewage treatment plant);

6. Any water or waste containing radioactive material in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create a hazard in the receiving waters of the sewage treatment plant;

7. Any water or waste containing synthetic detergents in sufficient quantity to injure or interfere with any sewage treatment process or create problems in the receiving water of the sewage treatment plant;

8. Any water or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

9. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

10. Any garbage that has not been properly shredded for the purpose of this chapter. This means that it has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in the public sewers, with no particle greater than one-half (½) inch in any dimension;

11. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system;

12. Any noxious or malodorous gas or substance capable of creating a public nuisance.

13. Materials which exert or cause:

    a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

    b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and

d. Unusual volumes of flow or concentrations of wastes constituting slugs.

14. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over the discharge to the receiving waters.

C. If waters or wastes are discharged or are proposed to be discharged to the public sewers contain the substances or possess the characteristics enumerated in subsection B of this section and which, in the judgment of the City, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City may:

1) Reject the wastes;

2) Require pretreatment to an acceptable condition for discharge to the public sewers;

3) Require control over the quantities and rates of discharge;

4) Require sampling of discharge at owners expense and/or

5) Require payment to cover the added costs of handling and treating the wastes not covered by sewer charges under the provisions of this section.

13.08.095 - Industrial wastewater permit requirements.

A. Any user whose facility may generate wastewater meeting the standards for an "industrial user" set forth in Section 13.08.010 of this chapter must apply for an industrial wastewater permit prior to connection to the City sewer system and pay the industrial wastewater fee set forth in Section 13.08.096 of this Chapter.

B. An industrial wastewater discharge permit shall be approved by the City manager if he or she finds that the application satisfies all of the following:

1. The applicant has submitted a letter of authorization from the Nevada County Department of Environmental Health;

2. The applicant has submitted satisfactory proof of compliance (e.g., laboratory analysis or report) to show that the wastewater discharge will meet the requirements, limitations and conditions contained in the current City wastewater discharge permit issued by California Regional Water Quality Control Board;

3. The application and the quality, quantity and condition of the proposed discharge have been approved by the director of public works and the engineer as satisfying the provisions of this chapter, applicable federal and state laws, the City wastewater discharge permit and other City policies and regulations concerning sewer service; and
4. The City's Publicly Owned Treatment Works (POTW) has available, unallocated capacity to accommodate the proposed discharge.

C. Wastewater discharged to the sanitary sewer must be metered with a flow totalizer with sampling of BOD, pH, TSS. Sampling shall be conducted by the industrial user at users expense at sampling frequency of two times per month during the first six months of business use; and every 6 months thereafter; and as required for compliance sampling.

D. As part of issuance of any industrial wastewater permit, the City may require installation of inspection ports, additional cleanouts and other facilities as the engineer may require to handle or pre-treat the wastewater flow.

E. Industrial users' facilities and flows shall be subject to periodic inspection by the City and testing of wastewater constituents. As a condition of grant of a permit, the industrial user shall agree to such conditions, including the right to make surprise inspections and testing at any time.

F. The conditions imposed by this Chapter on industrial users shall be in addition to all of the other requirements of this chapter applicable generally to all users.

13.08.096 - Industrial wastewater fees.

A. In addition to the other fees and charges required by this chapter, industrial wastewater disposal permit applicants and permittees shall pay the following fees to the City:

B. An application processing fee in an amount set by resolution of the City Council, due at time of submitting application for industrial wastewater discharge permit together with any additional amounts required by the City engineer for testing and other City costs.

C. Industrial wastewater disposal user fees will be calculated by the City engineer based on either (1) the number of equivalent dwelling units (EDUs) represented by the discharge, or (2) other calculations based on the discharger's share of actual operating costs of the City's sewer and wastewater treatment plant as determined by the City engineer. Fees are due and payable bi-monthly, with a minimum fee of five hundred dollars ($500.00) bi-monthly.

D. Reimbursement of the costs of any testing undertaken by the City of the industrial wastewater generated by the industrial user as authorized by this Chapter.

13.08.097 - Pretreatment.

A. If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject to the requirements of all applicable codes ordinances and laws.

B. Grease, oil, grit and sand interceptors, traps and similar systems shall be provided as set forth in Section 13.08.100.

C. Discharge of water or waste from the pretreatment facility to the City's Publicly Owned Treatment Works (POTW) shall not include prohibited discharges as set forth in Section 13.08.090.

D. Where preliminary treatment or rate-of-flow controller facilities are provided for any water or waste, they shall be maintained continuously, in satisfactory and effective operation, by the owner at his or her expense.

E. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate the observation, sampling and measurement of wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner, at his or her expense and shall be maintained by him or her to be safe and accessible at all times.

F. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association and shall be determined at the control manhole provided or upon suitable samples taken at such control manhole. In the event no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out in the customarily accepted methods to reflect the effect of constituents upon the sewer works and to determine the existence of hazards to life, limb and property.

13.08.100 – Fats, Oils and Grease (FOG) Interceptors.

A. All food service establishments ("FSE's") and all nonresidential sewer users shall be required to install and maintain a fat, oil, grease, grit and sand interceptor, trap or similar system (collectively a "FOG System") when the City manager or his/her designee finds that a FOG System is necessary for the proper collection, handling and disposal of (i) fats, oil or grease, (ii) flammable substances, (iii) grit, sand or dirt or (iv) other harmful constituents (collectively, "FOG") and will prevent or minimize the discharge of FOG into the City's sewer system. A FOG

System shall be installed when the wastewater flow from an FSE or any nonresidential user is anticipated to contain FOG in amounts or concentrations which the City determines, in its discretion, present the possibility of causing or contributing to the fouling of, blockage of or other damage to the City's sewer system.

B. All FSEs connected to the City's sewer system that use grease traps prior to the effective date of this Chapter shall upgrade to grease interceptors if after an inspection the City determines that the FSE is not complying with the City's operation, repair and maintenance requirements or if the City determines, in the City's discretion, that a grease trap alone is or is likely to be ineffective at preventing the discharge of FOG into the City's sewer system.

C. The type of FOG System to be installed shall be at the discretion of the City. Installation, maintenance and repair of the FOG System shall be the responsibility of (1) the owner of the property upon which the FOG System is installed, and (2) the person/entity that applies for connection to or use of the City's sewer system, and (3) the person/entity connecting to or using the City's sewer system, even if the property is leased, rented or otherwise occupied by a person or entity that is not the property owner. It shall be the responsibility of the owner of the property upon which a FOG System is installed to assure compliance by tenants or occupants of such property with the requirements of this Chapter. The City shall establish a FOG System permitting process.

D. Criteria for Determining Need for Installation or Upgrading of a FOG System. The City shall determine whether a FOG System is required to be installed or upgraded on a case-by-case basis based on an evaluation of objective criteria including, but not limited to, the following factors:

1. The type of facility (for example: a restaurant, bakery, ice cream shop, gas station, etc.);

2. The volume of the user's business or operation (such as number of meals served, number of seats, hours of operation);

3. Size and nature of facilities (including kitchen facilities) based on size, type, number of fixtures, and type of processing or cooking equipment used;

4. The type of service provided or operation undertaken (such as dine-in meal service versus carry-out meal service);

5. The type of foods or other materials used in the cooking, processing, or manufacturing operations carried on within the user's facility;

6. The overall potential for FOG-laden discharges;

7. The existence of devices, procedures, or processes which are designed to minimize the amount of FOG from entering the sewer system;

8. FOG-laden discharges from exhaust hood systems (vents, filters); and

9. Such other factors as the City may establish by resolution from time to time.

E. The design, size, location and procedures for operating a FOG System shall be approved by the City and shall meet at least the minimum requirements of the latest edition of the Uniform Plumbing Code and this Chapter, as well as satisfying all requirements established by the City engineer. The minimum interceptor size shall be determined by the City engineer, shall have a retention time of not less than fifteen (15) minutes and shall be located to be easily accessible for cleaning and inspection.

13.08.101 – Inspections of Fats, Oils and Grease (FOG) Interceptors.

A. Initial Inspection of Food Service Establishments. The City shall make a diligent effort to conduct FOG compliance inspections of all existing FSEs in its jurisdiction within ninety (90) days of the effective date of this Chapter using the criteria in Subsection 13.08.100 (D). If after making such inspection the City determines that a FOG System needs to be installed or upgraded on the inspected property, the City shall require the installation of an appropriate new or upgraded FOG System. The new or upgraded FOG System shall be installed to the City's satisfaction within a reasonable time, not to exceed ninety (90) days or such additional time as the City in its discretion may approve in writing upon a showing of good cause.

B. New FSE's and Commercial and Industrial Users. Prior to issuance of a building permit or other entitlement, all new FSE's and other new nonresidential users of the City's sewer system shall be evaluated to ascertain whether they warrant installation of a FOG System. If the City in its discretion determines that a FSE or other nonresidential user of the City's sewer system warrants installation of a FOG System, the FOG System shall be installed and must pass inspection prior to issuance of a certificate of occupancy.

C. Other Inspections. The City may inspect any FSE or nonresidential user of the City's sewer system and require the installation or upgrade of a FOG System at anytime. If the City in its discretion determines that a FOG System should be installed or upgraded, the responsible parties shall complete the installation within such time as the City shall allow which shall in no case exceed ninety (90) days except upon the written consent of the City for good cause shown.

13.08.102 – Maintenance of Fats, Oils and Grease (FOG) Interceptors.

A. All FOG Systems shall be operated, maintained, repaired in continuous and good working order at all times. Generally, the minimum cleaning frequency of any outdoor grease interceptor shall be once every six months, or as otherwise directed by the City, or whenever the combined layer of settled solids and the layer of floating solids in the interceptor reaches twenty-five (25) percent of the depth of the interceptor, whichever occurs earlier. Grease traps may require more frequent maintenance to stay below the twenty-five (25) percent limit. Decanting or discharging removed waste back into a FOG System for the purpose of reducing the volume to be hauled shall be prohibited. The use of chemicals, enzymes, grease solvents or emulsifiers to temporarily dissolve FOG in lieu of physical cleaning is not acceptable interceptor or trap maintenance and is prohibited. The use of biological additives as a supplement to FOG System maintenance, including the addition of micro-organisms, may be authorized in writing by the City prior to the use of such additives.

B. Maintenance records indicating date and type of service, volume pumped, name of waste hauler and waste disposal location for each pumping of a FOG System shall be kept for by the property owner for a minimum of three years. The records shall be provided to the City upon request.

C. All waste removed from a FOG System must be disposed at a duly permitted facility authorized to receive such waste. The waste shall not be returned to the public sewer system or manhole, any private wastewater system or any storm drain.

D. If significant grease accumulation (e.g. a partial blockage) is found downstream or if significant grease wicking is found upstream of FOG System, a special inspection of the premises may occur. The inspection will include a review of the FOG System, the FOG maintenance program, waste storage area, drains not flowing to the FOG System and such other investigation as the City deems necessary.

E. If an FSE or other nonresidential user of the City's sewer system causes, or is a substantial factor in causing, a FOG-related sanitary sewer overflow, the operator of the FSE or other nonresidential user, and the owner of the property will be responsible for all related costs, fines, penalties and other expenses.

13.08.110 - New construction design.

A. All new sewer extensions and service connections shall be properly designed and constructed. Plans for sewerage system construction shall meet all design requirements of the City, as determined by review of the City manager.

B. Inspection of all sewerage construction shall be made by personnel or agents of the City. No new construction shall be covered without the approval of the City.

C. The City shall be directly reimbursed by the project proponent for all reasonable costs associated with design review and inspection of new construction.

13.08.120 - Inspection and enforcement.

A. From time to time, City agents or personnel may enter onto privately or publicly owned lands to inspect portions of the sewage system, including service connections, for violations of the ordinance codified in this chapter. The City will endeavor to inspect at the convenience of the user and in no event will grease traps be inspected during peak meal hours.

B. Any user who violates any provision of this chapter, or who is found by the City manager to be guilty of any of the following violations, may be disconnected from the sewer and water system:

1. Failure of the user or owner to report significant changes in operations or wastewater flows, constituents, and characteristics;

2. Refusal to allow the City manager or his representatives' access to user's or owner's premises for the purpose of inspection, sampling, or monitoring;

3. Nonpayment of fees and charges;

4. Repeated violations of the provisions of this chapter.

C. Waste or wastewater discharge, threatened waste or wastewater discharge, or any condition or act in violation of any provision of this chapter, of any provision of any permit issued pursuant to the chapter, or of any order or directive of the City manager authorized by the provisions of this chapter, is declared to be a public nuisance and may be abated, removed, or enjoined and damages assessed therefor, in any manner provided by law.

D. When the City manager finds that a discharge of waste has taken place or is likely to take place in violation of this chapter, the City manager may issue an order to cease and desist such discharge, practice, or operation likely to cause such discharge and direct that those persons not complying shall:

1. Comply forthwith; or

2. Comply in accordance with a time schedule set forth by the City manager; or

3. Take appropriate remedial or preventative action.

E. In the event repairs, construction, or other public work is performed on any premises pursuant to any provision of law relating to the emergency performance of public work and expenditure of public funds therefor, or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate, or abate a condition upon such premises which threatens to cause, causes, or has caused a violation of any provision of the chapter, a violation of any permit issued pursuant to the provisions of the chapter, or a violation of any other requirement of law, then the user responsible for the occurrence or condition giving rise to such work, and the occupant and the owner of the premises shall be liable, jointly, and severally to the City for such public expenditures.

F. When a discharge of wastes causes an obstruction, damage, or any other impairment to City sewage system, the City may, after providing the user with notice

and opportunity to be heard, assess a charge against the user for the work required to clean or repair the sewage system, and may add such charge to the user's charges and fees.

G. Any charge or rental levied by the City pursuant to this chapter on any premises within the corporate limits of the City having a connection to the City sewage system is made a lien upon the premises. The City manager is authorized, and it shall be his duty, to disconnect any industrial sewer connection or domestic sewer connection on premises located either within the corporate limits of the City or outside the corporate limits of the City, upon failure of the person to whom such charge or rental is billed to pay such charge or rental prior to delinquency.

H. The City may terminate, or cause to be terminated, wastewater service to any premises, if a violation of any provisions of the ordinance codified in this chapter is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this chapter.

I. In the event of a violation of any terms of the chapter, or any rule or regulation established pursuant to this chapter, the City manager shall notify the person or persons causing, allowing, or committing such violation. Such notice shall specify in writing both the violation and the time after which, upon failure of such person or persons to prevent or rectify the violation, the City manager will exercise his authority to disconnect the property served by the sewage system. Such time shall not be less than five (5) days after the deposit of such notice in the United States Post Office at Nevada City, California, addressed to the person or persons to whom notice is given. In the event such violation results in a public hazard or menace, then the City manager may enter upon the premises without notice and do such things and expend such sums as may be necessary to abate such hazard, and the reasonable value of the things done and the amount expended in so doing shall be a charge upon the owner so in violation.

J. When service has been disconnected as provided in this chapter, the City manager may require that the person or persons who request that such service be reestablished furnish security acceptable to the City manager in a sum not to exceed five hundred dollars ($500.00), payable to the City and conditioned upon compliance with the provision of this chapter, before granting permission to make such connection. Before such service will be reestablished, the person or persons making application for such reestablishment of service shall pay all expenses incurred by the City in causing such disconnection and in reestablishing such connection.

K. It is unlawful to knowingly make any false statement, representation, record, report, plan, or other document, or to knowingly tamper with, bypass, or render inaccurate any sample monitoring device or equipment installed or operated pursuant to this chapter or to any permit issued under this chapter. In addition to any punishment or remedy provided by law, any such falsification or tampering shall be grounds for disconnecting said user from the sewer system.

L. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of

the sewage system. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

M. Appeals.

1. Any user, permittee, applicant, or other person aggrieved by any decision, action, finding, determination, order, or directive of the City manager which is made or authorized pursuant to the provisions of this chapter, or which relates to any permit issued pursuant to this chapter, or to any interpretation or implementation of the same, may file a written request with the City manager for reconsideration thereof within ten (10) days of such decision, action, finding, determination, or order, setting forth in detail the facts supporting each user's or person's request for reconsideration. The City manager shall render a final decision within fifteen (15) days of the receipt of such request for reconsideration;

2. Any user, permittee, applicant, or other person aggrieved by the final determination of the City manager may appeal such determination to the City council of Nevada City within fifteen (15) days after notification of the final determination of the City manager, and shall set forth in written detail the facts and reasons supporting the appeal. The appeal shall be heard by the City council within forty-five (45) days from the date of filing the notice of appeal. The appellant, the City manager, and such other persons as the City council may deem appropriate shall be heard at the hearing on such appeal.

3. The City council shall cause notice to be given, at least ten (10) days prior to the time fixed for such hearing, to all persons affected by such appeal, of the time and place fixed by the City council for hearing such appeal. The City council shall direct the City clerk to mail a written notice, postage prepaid, to all such persons whose addresses are known to the City council, and to publish such notice once in a newspaper of general circulation within the City at least five (5) days prior to the date fixed for such hearing.

4. Upon conclusion of such hearing, the City council may affirm, reverse, or modify the final determination of the City manager as the City council deems just and equitable, and in harmony with the provisions of the chapter. During the pendency of any such appeal, the final determination of the City manager shall remain in full force and effect. The City council's determination on the appeal shall be final.

5. Pending decisions upon any appeal relative to the amount of any charge hereunder, the person making such appeal shall pay such charge. After the appeal is heard, the City council shall order refunded to the person making such appeal such amount, if any, as the City council shall determine should be refunded.

N. Any person who intentionally or negligently violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who intentionally or negligently discharges waste or wastewater which causes pollution, or who so violates any cease and desist order, prohibition, effluent limitation, national standard of performance, or national pretreatment or toxicity standard may also be in violation

of the Porter-Cologne Act and be subject to its sanctions, including ten thousand dollars ($10,000.00) a day civil penalty.

O. Every person who violates any provisions of this chapter is guilty of a misdemeanor and is punishable as provided in the Health and Safety Code Section 4766.

P. The remedies provided for in this chapter shall be cumulative and not exclusive and shall be in addition to any and all other remedies available to the City.

Q. Any person violating the provisions of this chapter shall become liable to the City for any expense, loss, or damage, including any fines levied upon the City, occasioned by the City by reason of such violation."

SECTION II:

STATUTORY CONSTRUCTION & SEVERABILITY: It is the intent of the City Council of the City of Nevada City to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Nevada City hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION III: Effective Date and Publishing Requirement.

This Ordinance shall become effective thirty (30) days after the adoption date thereof and within fifteen (15) days of the passage of this Ordinance, the City Clerk shall publish this Ordinance in The Union, a newspaper of general circulation.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held this ____ day of _____, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Erin Minnett, Mayor

ATTEST:

_____
Niel Locke, City Clerk

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: Resolution 2020-XX, a Resolution Approving the Memorandum of Understanding (MOU) Regarding Delectation of the Permanent Local Housing Allocation (PLHA) Plan and Resolution 2020-XX Authorizing the formation of a Regional Local Housing Trust Fund (LHTF) with the County of Nevada, the City of Grass Valley and the City of Nevada City

RECOMMENDATION:

1. Pass Resolution 2020-XX, a Resolution approving a memorandum of understanding between the County of Nevada, City of Grass Valley and City of Nevada City pertaining to the proposed regional application for the Permanent Local Housing Allocations (PLHA) and authorizing the formation of a Regional Housing Trust Fund (RHTF) for the coordination and administration of the Permanent Local Housing Allocations; and

2. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, Authorizing the County Of Nevada to Apply to Jointly Form A Regional Local Housing Trust Fund.

CONTACT: Catrina Olson, City Manager

BACKGROUND / DISCUSSION:

The Permanent Local Housing Allocation (PLHA) is an allocation of SB2 funds ($75 dollar recording fee on real estate transactions) made to all California jurisdictions- Cities and Counties. The City of Nevada City will receive a yearly allocation of PLHA dollars over the next five years totaling $437,190 ($87,438 per year beginning with FY 19/20). The application period for this allocation is currently open with applications due on July 27, 2020.

PLHA guidelines allow for jurisdictions to jointly apply for PLHA funds, by designating one of the parties to act as the applicant and administrator for those funds on behalf of all parties. Nevada County worked with both the City of Nevada City and the City of Grass Valley to review the eligible activities for PLHA funds and the reporting requirements necessary to administer the funds and both jurisdictions agreed to delegate the Cities' allocations to the County and to work with the County to create a collaborative plan for use of the PLHA funds. By delegating these funds to a joint account, to be administered by the County, all three jurisdictions have committed to work together to maximize the PLHA funding opportunity to create greater impact across the Western County region. The legally binding agreement, presented here as an MOU, outlines the County's and the Cities' roles and responsibilities in achieving activities outlined in the County's PLHA Plan. It delegates 5 years of PLHA funds from the City of Nevada City ($437,190) and the City of Grass Valley ($813,049) to the County to achieve the goals laid out in the PLHA plan.

To maximize the effectiveness of the multi-jurisdictional PLHA funds, the County recommends that the parties to the MOU also form a Local Housing Trust Fund (LHTF) Program to form a Regional Housing Trust Fund "Western Nevada County Regional Housing Trust Fund", in order to become eligible for state grants funds from the LHTF Program. It is anticipated that the parties would be able to receive an LHTF grant in the amount of funds that match the PHLA grants funds awarded. The County of Nevada will be the lead administrator of the Western Nevada County Regional Housing Trust Fund to apply both apply for LHTF Program funds on behalf of the County and the Cities of Grass Valley and Nevada City, and to administer the allocation of the grant funds and undertake the accounting, reporting and other Department required administrative activities. LHTF Program funding will be used in accordance with applicable laws, rules, and regulations related to the LTHF program, and in compliance with any/all contracts and matching requirements with HCD. Recognizing the unique opportunity to leverage additional local dollars.

Through collaboration with the County and the City of Grass Valley through the establishment of a Regional Housing Trust Fund, which shall be administered by the County pursuant to the terms of the MOU, the PLHA plan creates a framework for greater coordination in the region around affordable housing development.

ENVIRONMENTAL CONSIDERATIONS: Not applicable.

FISCAL IMPACT: Up to $3,124,155 in PLHA funding representing a combined total of all three jurisdictions is projected to be allocated over 5 years. A portion of these funds will be used to satisfy the requirement of the HCD's LHTF grant program by providing local matching funds that will allow the County to apply for additional state funds to further support the Western Nevada County Regional Housing Trust Fund. In addition, $500,000 of Nevada County General Fund dollars will be allocated to the LHTF further leverage the opportunity for matching state funds.

ATTACHMENTS:

- ✓ Draft Resolution 2020-XX, a Resolution approving a memorandum of understanding between the County of Nevada, City of Grass Valley and City of Nevada City pertaining to the proposed regional application for the Permanent Local Housing Allocations (PLHA) and authorizing the formation of a Regional Housing Trust Fund (RHTF) for the coordination and administration of the Permanent Local Housing Allocations; and
- ✓ Draft Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, Authorizing the County Of Nevada to Apply to Jointly Form A Regional Local Housing Trust Fund.

RESOLUTION NO. 2020-XX

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE COUNTY OF NEVADA, CITY OF GRASS VALLEY, AND THE CITY OF NEVADA CITY PERTAINING TO THE PROPOSED REGIONAL APPLICATION FOR THE PERMANENT LOCAL HOUSING ALLOCATIONS, AND AUTHORIZING THE FORMATION OF A REGIONAL HOUSING TRUST FUND FOR THE COORDINATION AND ADMINISTRATION OF THE PERMANENT LOCAL HOUSING ALLOCATIONS

WHEREAS, the California Department of Housing and Community Development ("HCD") issued a Notice of Funding Availability ("NOFA") dated February 26, 2020, under the Permanent Local Housing Allocation (PLHA) Program; and

WHEREAS, HCD is authorized to provide up to $195,000,000 under the SB-2 Permanent Local Housing Allocation Program Formula Component from the State Treasury's Building Homes and Jobs Trust Fund for assistance to Cities and Counties for eligible affordable housing projects, as more fully described in Health and Safety Code section 50470 et seq.; and

WHEREAS, the City of Nevada City is an eligible local government to apply for funding under the PLHA Program to administer one or more eligible activities, or a local or regional housing trust fund to whom eligible local governments may delegate their PLHA formula allocations and seek to create a legally binding agreement for the purposes of applying for PLHA funding; and

WHEREAS, the County of Nevada, City of Grass Valley, and City of Nevada City desire to coordinate through a regionalized approach in an application for, and allocation of, PLHA funding through the formation of a local or regional housing trust fund, and more fully described in the attached Memorandum of Understanding (MOU) between the jurisdictions, which shall serve as a legally binding agreement for this purpose; and

WHEREAS, the County is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [$1,837,916] in accordance with all applicable rules and laws; and

WHEREAS, Grass Valley is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [$813,049,] in accordance with all applicable rules and laws; and

WHEREAS, Nevada City is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [$473,190] in accordance with all applicable rules and laws; and

WHEREAS, the City of Grass Valley and City of Nevada City desire to delegate their PLHA allocation to the County to submit a regional application on their behalf and to allow the County

to administer their respective PLHA grant awards as a Regional Housing Trust fund, referred to as the “Western Nevada County Regional Housing Trust Fund,” pursuant to sections 300(c) and 300(d) of the PLHA Guidelines, and as set forth in the MOU; and

WHEREAS, HCD will match PLHA funds maintained in a regional trust account between $750,000 to $5,000,000, thereby enabling the County of Nevada, City of Grass Valley, and City of Nevada City to double their respective allocations for eligible affordable housing projects.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors, of the County of Nevada, State of California, that the Memorandum of Understanding by and between the County of Nevada, City of Grass Valley, and City of Nevada City pertaining to the delegation of allocated PLHA funds by each jurisdiction to the County of Nevada as a Regional Housing Trust Fund, and authorizing the County of Nevada to act as the applicant for PLHA fund on behalf of the City of Grass Valley, and City of Nevada City, is hereby approved in substantially the same form attached hereto, and that the Chair of the Board of Supervisors is authorized to sign the Memorandum of Understanding on Behalf of the County of Nevada.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City as follows:

> **Section 1.** The Memorandum of Understanding by and between the County of Nevada, City of Grass Valley, and City of Nevada City pertaining to the delegation of allocated PLHA funds by each jurisdiction to the County of Nevada as a Regional Housing Trust Fund, and authorizing the County of Nevada to act as the applicant for PLHA fund on behalf of the City of Grass Valley, and City of Nevada City, is hereby approved in substantially the same form attached hereto as Exhibit A, and the Mayor is authorized to sign the Memorandum of Understanding on Behalf of the City of Nevada City.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada City at a public meeting held on the 8th of July, 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Erin Minett, Mayor

ATTEST:

By: _____

Niel Locke, City Clerk

MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF NEVADA HEALTH AND HUMAN SERVICES AGENCY, CITY OF GRASS VALLEY, AND CITY OF NEVADA CITY PERTAINING TO THE PROPOSED APPLICATION FOR AND COORDINATION OF PERMANENT LOCAL HOUSING ALLOCATIONS

THIS MEMORANDUM OF UNDERSTANDING, hereinafter referred to as "MOU", is made and entered into this 1st day of July 2020 (the "Effective Date") by and between Nevada County through the Health and Human Services Agency, hereinafter referred to as "County", City of Grass Valley, hereinafter referred to as "Grass Valley", and the City of Nevada City, hereinafter referred to as "Nevada City," collectively, the "Parties."

RECITALS

WHEREAS, HHSA is a department of the County of Nevada, and Grass Valley and Nevada City are legally recognized municipalities within the County of Nevada, California; and

WHEREAS, the California Department of Housing and Community Development ("HCD") issued a Notice of Funding Availability ("NOFA") dated February 26, 2020 under the Permanent Local Housing Allocation (PLHA) Program; and

WHEREAS, HCD is authorized to provide up to $195,000,000 under the SB-2 Permanent Local Housing Allocation Program Formula Component from the State Treasury's Building Homes and Jobs Trust Fund for assistance to Cities and Counties (as described in Health and Safety Code section 50470 et seq., Chapter 364, Statutes of 2017 (SB 2)); and

WHEREAS, HCD may approve funding allocations for the PLHA Program, subject to the terms and conditions of the Guidelines, NOFA, Program Requirements, the Standard Agreement and other contracts between HCD and PLHA grant recipients; and

WHEREAS, the County of Nevada is an eligible local government to apply for funding under the PLHA Program to administer one or more eligible activities, or a local or regional housing trust fund to whom eligible local governments may delegate their PLHA formula allocation and seek to create a legally binding agreement for the purposes of applying for PLHA funding; and

WHEREAS, the County of Nevada, Grass Valley, and Nevada City desire to coordinate on a regionalized approach in application for, and allocation of, PLHA funding through the formation of a local or regional housing trust fund; and

WHEREAS, the County is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [**$1,837,916]** in accordance with all applicable rules and laws; and

WHEREAS, Grass Valley is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [**$813,049**,**]** in accordance with all applicable rules and laws; and

WHEREAS, Nevada City is authorized to receive a PLHA grant, in an amount not to exceed the five-year estimate of the PLHA formula allocations, as stated in Appendix C of the current NOFA [**$473,190**] in accordance with all applicable rules and laws; and

WHEREAS, Grass Valley and Nevada City desire to delegate their PLHA allocation to the County to submit a regional application on their behalf and for the County to administer the PLHA grant award for each jurisdiction's formula allocation of PLHA funds pursuant to Guidelines section 300(c) and 300(d), and those stipulations as will be required in subsequent legally binding agreement between Grass Valley, Nevada City, and the County for this purpose;

Now, therefore, it is mutually understood and agreed to between the Parties as follows:

I. PURPOSE

This MOU delineates the understandings of the County, Grass Valley and Nevada City with regard to the submission of the PLHA application to HCD for the allocated funding and any other funds that may become available and are within the scope of eligible PLHA Activities.

II. TERMS AND DEFINITIONS

Throughout this MOU, all words used in this Agreement have the same meaning as defined in Program Guidelines, Section 101.

III TERM

The term of this MOU shall commence as of the Effective Date stated above and shall continue for five (5) years, unless this MOU is terminated sooner according to the Termination clause herein, or the term is extended by mutual agreement of the Parties.

IV. UNDERSTANDINGS OF THE PARTIES

A. The County shall undertake the following:

1. Coordinate and facilitate the completion of the PLHA application, which shall include:
   a. Coordinating interagency meetings and activities related to program implementation under PLHA and other funding sources' application processes (such as the Local Housing Trust Fund application and any subsequent PLHA competitive applications). This will include, but not be limited to, establishing reoccurring meetings, distribution of meeting notes and other meeting materials, and creating and maintaining documents and tools related to project planning, and delivery of funding allocations to projects.

   b. Submitting the PLHA application in an amount not to exceed the combined 5-year estimate of the PLHA formula allocations for the County, Grass Valley, and Nevada City, as stated in the Appendix C of the current NOFA, totaling $3,124,155.

2. Maintain a contractual relationship with HCD to ensure compliance with the funding requirements as set forth in PLHA program guidelines.

3. Maintain and manage fiscal responsibility over all funds received and committed through the PLHA allocation process for the County of Nevada, Grass Valley and Nevada City, consistent with all Program requirements.

4. Develop and implement accounting procedures related to tracking of the Parties' individual allocations of PLHA funds maintained within separate sub-accounts of the greater PLHA fund and related Western Nevada County Regional Housing Trust Fund, including the tracking of expenditures of the fund and related sub-accounts consisting of the individual entity's allocation.

5. Participate in project planning, technical assistance and/or public meetings related to the application process and distribution of funding process, including but not limited to developing written background materials on PLHA program and other funding sources, as determined, providing background and information pertaining to Community Development Agency and Health and Human Services Agency programs, policies and procedures and making them available to decision making entities and stakeholders throughout the process.

6. Cooperate and coordinate with Grass Valley and Nevada City in assembling the PLHA application and any other applications for funds that may become available and are within the scope of eligible PLHA Activities.

7. Identify, in coordination with the Parties, the steps necessary to create the Western Nevada County Regional Housing Trust Fund, into which the Parties' PLHA funds will be deposited and managed.

8. Designate appropriate staff to participate in collaborative decision-making regarding PLHA and application planning and implementation for any other identified funds.

9. Adopt resolutions necessary to fulfill PLHA and other funding source requirements including, but not limited to: the strategic plan to address homelessness, the provision of expanding affordable housing in Western Nevada County, the authorizations allowing for the County to apply for and accept PLHA noncompetitive and other competitive funds. HHSA staff will ensure these items are completed prior to funding submission deadlines.

10. In coordination with the Parties, ensure compliance with all threshold requirements under PLHA guidelines, and all other requirements specified in other potential funding sources including but not limited to, establishing and maintaining a Local Housing Trust Fund/

11. Enter into all required legally binding agreements with Grass Valley and Nevada City pertaining to the submission of the PLHA application and administering on their behalf their formula allocation of Program funds into the Western Nevada County Regional Housing Trust Fund for eligible activities consistent PLHA Program requirements.

12. Use PLHA funds for eligible activities as approved by HCD and in accordance with all Program requirements, Guidelines, other rules and laws, as well as in a manner consistent and in compliance with the Standard Agreement and other contracts between the County and HCD.

13. Establish PLHA funding priorities in coordination with delegating jurisdictions and in compliance with PLHA Guidelines in line with the purposes of directing allocations of PLHA funds to projects agreed to by the Parties.

B. Grass Valley shall undertake the following:

1. Delegate available PLHA funding allocation to the County for the purposes of administering funds back into the community based on agreed to funding levels and priorities, as described in Section IV(A)(13).

2. Prepare and provide information and documentation for completion of the PLHA application in accordance with the established project timeline.

3. Work with HHSA staff to provide all information and documentation required for completion of any other identified funds applications.

4. Support County efforts, when required, to ensure compliance with all City regulations, public meeting requirements, and any processes related to the planning and delivery of funds to a proposed funding project.

5. Designate appropriate staff or consultants to participate in collaborative decision making regarding PLHA, and other potential funding sources.

6. Have a representative participate in special meetings for the purpose of considering PLHA funding allocation decisions and vote to represent Grass Valley as part of a three-agency committee allocation process.

7. Work cooperatively with the Parties to identify the steps necessary to create the establishment of the Western Nevada County Regional Housing Trust Fund, into which the Parties' PLHA funds will be deposited and managed.

8. Enter into all required legally binding agreements necessary for the submission of the PLHA application and administration of its formula allocation of Program funds into the Western Nevada County Regional Housing Trust Fund for eligible activities consistent PLHA Program requirements.

9. Work with the Parties to establish PLHA funding priorities in coordination with delegating jurisdictions and in compliance with PLHA Guidelines in line with the purposes of directing allocations of PLHA funds to projects agreed to by the Parties.

C: Nevada City shall undertake the following:

1. Delegate available PLHA funding allocation to the County for purposes of administering the funds back into the community based on agreed to funding levels and priorities, as described in Section IV(A)(13).

2. Prepare and provide information and documentation for completion of the PLHA application in accordance with the established project timeline.

3. Work with HHSA staff to provide all information and documentation required for completion of any other identified funds application.

4. Support County efforts, when required, to ensure compliance with all City regulations, public meeting requirements, and any processes related to the planning and delivery of funds to a proposed funding project.

5. Designate appropriate staff or consultants to participate in collaborative decision making regarding PLHA, and other potential funding sources.

6. Have a representative participate in special meetings for the purpose of considering PLHA funding allocation decisions and vote to represent Nevada City as part of a three-agency committee allocation process.

7. Work cooperatively with the Parties to identify the steps necessary to create the establishment of the Western Nevada County Regional Housing Trust Fund, into which the Parties' PLHA funds will be deposited and managed

8. Enter into all required legally binding agreements necessary for the submission of the PLHA application and administration of its formula allocation of Program funds into the Western Nevada County Regional Housing Trust Fund for eligible activities consistent PLHA Program requirements.

9. Work with the Parties to establish PLHA funding priorities in coordination with delegating jurisdictions and in compliance with PLHA Guidelines in line with the purposes of directing allocations of PLHA funds to projects agreed to by the Parties.

D: Collectively, the Parties Agree:

1. Not less than quarterly, to meet to identify new potential funding sources, review the current funding allocations, review Activities accomplished under this MOU, evaluate the efficacy of this MOU, assess the quality of the working relationship between HHSA, Grass Valley and Nevada City, determine the status of work products, and assess future Activities for potential PLHA funding by the partnership or assignment of funds from the Western Nevada County Regional Housing Trust Fund.

2. Meet in good faith to promptly address any disputes arising under this MOU.

3. The County shall retain the portion of the PHLA grant funds awarded earmarked for administrative fees to reimburse the costs of County staff time and expenses in fulling its obligations under this Agreement.

4. Nothing in this Agreement removes the Parties' authority to determine how each jurisdiction's portion of the grant funds shall be spent. The Parties intend to designate how each jurisdiction's PHLA grant funds shall be spent in forthcoming project allocation plans, which shall be subject to approval by Parties' respective County Board of Supervisors and City Councils.

E: Funding

1. In addition to the PLHA allocations for each governmental entity previously described in this MOU, County, Grass Valley and Nevada City shall work cooperatively together to identify and seek sufficient future funding, including additional state or federal grants, foundations grants and/or other funding sources, to promote the sustainability of the Local Housing Trust Fund and affordable housing project goals.

F: ALTERATION OF TERMS

No alteration or variation of the understandings of this MOU shall be valid unless made in writing and signed by all three parties.

G: TERMINATION

Any party may terminate their participation in this MOU for any reason, or without cause, by giving 60 days' written notice to the other two entities, which shall be served in conformity with the notice provisions contained in this MOU.

1. Upon termination, the party terminating their participation shall gain control of their remaining funding allocation to use consistent with the application submitted and Plan approved, unless an amendment to the Plan is sought with the State.

H: NOTICES

Any notice required or permitted to be given under this MOU shall be in writing and shall be served by registered mail or personal service upon the other party.

I: AMENDMENTS

Any material changes to any of the clauses above must be mutually agreed upon by all three entities, and shall only become effective when in writing and fully executed by duly authorized officials of the Parties hereto.

J: PARTIES AS INDEPENDENT

In agreeing to the obligations and understandings set forth herein, each Party acknowledges that it shall act in an independent capacity, and not as the employees, agents, or officials of the other. Each Party agrees that neither its agents nor employees have any rights, entitlement or claim against the other for any type of employment benefits or workers' compensation. Each Party shall hold the other harmless and indemnify against any such claim by its agents or employees.

K: INDEMNIFICATION

Nothing herein shall be construed as a limitation of any entities liability, and all parties shall indemnify, defend, and hold harmless the County of Nevada, its officers, officials, employees,

agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees) which result from the negligent act, willful misconduct, or error or omission of any entity, except such loss or damage which was caused by the sole negligence or willful misconduct of the County, its employees, agents or volunteers.

Nothing herein shall be construed as a limitation of County's liability, and County shall indemnify, defend, and hold harmless Grass Valley and Nevada City from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees) which result from the negligent act, willful misconduct, or error or omission of County, its employees, agents or volunteers, except such loss or damage which was caused by the sole negligence or willful misconduct of either Grass Valley or Nevada City, its employees, agents or volunteers.

L: INSURANCE

It is agreed that the Parties to this MOU shall maintain at all times during the term of this MOU insurance coverage in the amounts of not less than One Million Dollars ($1,000,000) to cover all of its operations. Specifically, but not limited to, not less than One Million Dollars ($1,000,000) general liability, One Million Dollars ($1,000,000) automobile liability, One Million Dollars ($1,000,000) workers' compensation, and One Million Dollars ($1,000,000) professional liability (E&O).

Signatures:

By: _____ Date:
Honorable Heidi Hall, Chair, of the Board of Supervisors

Attest:

_____ Date:
Julie Patterson Hunter, Clerk of the Board of Supervisors

By: _____ Date:
Lisa Swarthout, Mayor of City of Grass Valley

By: _____ Date:
Erin Minett, Mayor of City of Nevada City

Approved as to Form:

_____

Crystal V. Hodgson, City Attorney for Nevada City

_____

Michael Colantuono, City Attorney for Grass Valley

RESOLUTION NO. 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY AUTHORIZING THE COUNTY OF NEVADA TO APPLY TO JOINTLY FORM A LOCAL HOUSING TRUST FUND

WHEREAS, the California Department of Housing and Community Department ("Department") is authorized to provide up to $57 million under the Local Housing Trust Fund ("LHTF") Program from the Veterans and Affordable Housing Bond Act of 2018 (Proposition 1) (as described in Health and Safety Code section 50842.2 et seq. (Chapter 365, Statutes of 2017 (SB 3)) ("Program").

WHEREAS, the State of California (the "State"), Department of Housing and Community Development ("Department") issued a Notice of Funding Availability ("NOFA") dated 04/30/2020 under the LHTF Program;

WHEREAS, the City Council desires to form a Regional Housing Trust Fund, "Western Nevada County Regional Housing Trust Fund" with the County of Nevada and the City of Grass Valley, in order to become eligible for state grants funds from the LHTF Program. The City Council desires the County of Nevada to be the lead administrator of the Western Nevada County Regional Housing Trust Fund to both apply for LHTF Program funds on behalf of the County and the Cities of Grass Valley and Nevada City, and to administer the allocation of the grant funds and undertake the accounting, reporting and other Department required administrative activities; and

WHEREAS, the Department may approve funding allocations for the LHTF Program, subject to the terms and conditions of H&S Code Section 50842.2, the LHTF Program Guidelines, NOFA, Program requirements, the Standard Agreement and other related contracts between the Department and LHTF award recipients.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF NEVADA:

1. The City Council authorizes the County of Nevada to apply to jointly form the Western Nevada County Regional Housing Trust Fund ("WNCRHTF") with the County of Nevada, the City of Nevada City and the City of Grass Valley and to authorize the County to apply for LHTF Program funds on the City's behalf, and agrees to use all such funds on Eligible Projects in a manner consistent and in compliance with all applicable state and federal statutes, rules, regulations, and laws, including, without limitation, all rules and laws regarding the LHTF Program, as well as any and all contracts City may have with the Department ("Eligible Project").

1. The City Council hereby authorizes the WNCRHTF to act as the manager in connection with the Department's funds to Eligible Projects pursuant to the above-described Notice of Funding Availability in an amount not to exceed $2,000,000 (the "LHTF Award").

2. The City Council hereby agrees to match on a dollar for dollar basis the LHTF Award pursuant to Guidelines Section 104, in an amount not to exceed the PHLA funds awarded annually. The City Council agrees to utilize matching funds on a dollar-for-dollar basis for the same Eligible Project for which Program Funds are used, as required by HSC Section 50843.5(c) and identified in Attachment 1 to this Resolution.

3. The City Council hereby agrees that the City will only expend LHTF funds on Eligible Projects and consistent with all program requirements.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Nevada City held on the 8th day of July, 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Erin Minett, Mayor

ATTEST:

_____
Niel Locke, City Clerk
Signature of Approving Officer

Attachment 1

The Program Funds will be used for affordable housing developments located within the three jurisdictions that incorporate the "Western Nevada County Regional Housing Trust Fund". This is Nevada County, City of Grass Valley and City of Nevada City.

The RHTF will be established with funds from the three jurisdictions Permanent Local Housing Allocations (PLHA) annually from the California Department of Housing and Community Development (HCD). PLHA funds from each are as follows:

	2019	2020
Nevada County	$306,419	$746,135
City of Grass Valley	$135,508	
City of Nevada	$ 78,865	$ 78,865
TOTAL	$520,692	$825,000

The matching funds from HCD's Local Housing Trust Fund program will be used with the local funds to be awarded to potential affordable housing developments that will have Area Median Income (AMI) levels from 30% to a maximum of 60% for units funded with the Western Nevada County Regional Housing Trust Fund dollars. The Western Nevada County Regional Housing Trust Fund will establish a Notice of Funding Availability (NOFA) once all funds have been committed from the State and Local sources. Within that NOFA, loan terms, loan amounts and scoring criteria will be

established for each funding round that is made available by the Regional Housing Trust Fund.

REPORT TO CITY COUNCIL

City of Nevada City
317 Broad Street
Nevada City, CA 95959
www.nevadacityca.gov

July 8, 2020

TITLE: An Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management to Comply with FEMA's Requirements.

RECOMMENDATION:

1. Pass Resolution 2020-XX, a Resolution of the City Council of the City of Nevada City, State of California approving a Notice of Exemption (Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management to Comply with FEMA's Requirements); and

2. Approve for introduction and first reading of Ordinance by title only, waiving further reading of the entire Ordinance.

CONTACT: Bryan McAlister, City Engineer
Crystal Hodgson, Consulting City Attorney

BACKGROUND / DISCUSSION:
FEMA Region IX Floodplain Management and Insurance Branch recently reviewed Nevada City's Ordinance to assess the community's enforcement of National Flood Insurance Program (NFIP) requirements. To participate in the NFIP, communities must have enforceable floodplain management regulations that are consistent with the requirements in Title 44, Code of Federal Regulations (CFR), Chapter I, Subchapter B, Parts 59 and 60 for land management and use. The City adopted its floodplain management regulations in Municipal Code Title 13, Chapter 13.20, and in Ordinance 97-04, Section 8.24 of the Nevada City Municipal Code, on October 27, 1997. The City elected to adopt higher NFIP standards from 44 CFR, 60.3(a)-(d); however, the City is only required to adopt the minimum requirements of 60.3(a)-(b).

FEMA provided a courtesy review of the ordinance and identified some deficiencies with current NFIP requirements. The City needs to amend its ordinance to comply with NFIP provisions and to reduce future flood risks to new construction. Participation in the NFIP provides access to federally backed flood insurance protection for property owners. The proposed amendment to chapter 13.20 of the Nevada City Municipal Code pertaining to flood plain management has been reviewed by City of Nevada City Engineering department and is recommended for approval.

Adoption of the proposed ordinance is exempt from CEQA review pursuant to CEQA Guidelines including Section 15378(b)(5) as an organizational or administrative

governmental activity that will not result in direct or indirect physical changes to the environment, and Section 15060(c)(2) as an activity covered by the general rule that CEQA applies only to projects that have the potential for a direct or reasonably foreseeable indirect physical change in the environment.

ENVIRONMENTAL IMPACT: Recommend finding ordinance is exempt from environmental review under CEQA pursuant to §§15378(b)(5) and 15060(c)(2) as recited in proposed ordinance.

FISCAL IMPACT: No direct fiscal impact to the City as NFIP (insurance) is purchased by property owners.

ATTACHMENTS:

- ✓ Resolution 2020-XX approving a Notice of Exemption (CEQA) for the Ordinance
- ✓ Proposed City Ordinance No. 2020-XX with attached amendments to Nevada City Municipal Code Chapter 13.20

RESOLUTION 2020-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA APPROVING OF A NOTICE OF EXEMPTION

(Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management To Comply With FEMA's Requirements)

WHEREAS, Ordinance No. XX of the City of Nevada City amends portions of Chapter 13.20 of the Nevada City Municipal Code pertaining to Flood Plain Management to comply with FEMA's updated requirements;

WHEREAS, the Ordinance is exempt from California Environmental Quality Act (CEQA) review pursuant to the CEQA guidelines, including §15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and §15060(c)(2) as an activity that does not create a potential for direct or reasonably foreseeable indirect physical change in the environment.

WHEREAS, a Notice of Exemption has been prepared for the Project; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Nevada City as follows:

Section 1. Based on the review and determination of the City Council, the City Council of the City of Nevada City finds that the Project is exempt from review under the California Environmental Quality Act.

Section 2. The Notice of Exemption attached hereto as Exhibit 1 is recommended for approval for the Project.

Section 3. Upon approval of the Project by the City Council, the City Clerk may file the Notice of Exemption with the County Clerk of Nevada County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of Section 21152(b) of the Public Resources Code and the State EIR Guidelines adopted pursuant thereto.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada City at a public meeting held on the 8th of July 2020, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

_____

ERIN MINETT, MAYOR

ATTEST:

_____

Niel Locke, City Clerk

APPROVED AS TO FORM

_____

Crystal Hodgson, City Attorney

NOTICE OF EXEMPTION

TO: ☐ **Office of Planning and Research**
1400 Tenth Street
Sacramento, CA 95814

FROM: City of Nevada City
317 Broad Street
Nevada City, CA 95959

☐ **Nevada County Clerk/Recorder's Office**
Environmental Filings
Eric W. Rood Administrative Center
950 Maidu Avenue, Nevada City CA 95959

Project Title: Ordinance of the City of Nevada City Amending Portions of Chapter 13.20 of the Nevada City Municipal Code Pertaining to Flood Plain Management to Comply with FEMA's Requirements

Project Address: 317 Broad Street, Nevada City, California 95959

Project Location – City: City of Nevada City

Project Location – County: Nevada

Project Description: The ordinance amends the Nevada City Municipal Code to update the City's Flood Plain Management Ordinance to comply with FEMA's updated requirements.

Name of Public Agency Approving Project: City of Nevada City

Name of Person or Agency Carrying Out Project: City of Nevada City

Exempt Status: (Check One)

_____ Ministerial (Section 21080(b)(1); 15268);

_____ Declared Emergency (Section 21080(b)(3); 15269(a));

_____ Emergency Project (Section 21080(b)(4); 15269(b)(c));

_____ "Common Sense" Exception (Section 15061(b)(3))

__X__ Categorical Exemption. Type and section numbers: *15378(b)(5), 15060(c)(2)*

_____ Statutory Exemptions. State code number:

Reasons why project is exempt: This Ordinance is exempt from California Environmental Quality Act (CEQA) review pursuant to the CEQA guidelines, including §15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and §15060(c)(2) as an activity that does not create a potential for direct or reasonably foreseeable indirect physical change in the environment.

Lead Agency Contact Person: Amy Wolfson, City Planner **Number:** 530-265-2496x130

Signature & Title: _____ **Date:** _____

☐ **Signed by Lead Agency** ☐ **Signed by Applicant** **Date received for filing:** _____

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING PORTIONS OF CHAPTER 13.20 OF THE NEVADA CITY MUNICIPAL CODE PERTAINING TO FLOOD PLAIN MANAGEMENT TO COMPLY WITH FEMA'S REQUIREMENTS

WHEREAS, Chapter 13.20 "Flood Plain Management" of the City Municipal Code provides regulations and requirements for the City to manage property within flood plains; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") is the federal agency charged with designating flood plain areas and issuing flood insurance to properties build within flood plains. FEMA has notified the City that its flood plain management regulations must be updated in order to allow persons within flood plains to obtain federal flood insurance through FEMA.

WHEREAS, the City Council desires to update the provisions of the Nevada City Municipal Code Chapter 13.20 comply with FEMA's requirements to ensure that Nevada City's citizens who need flood insurance through FEMA are eligible for it.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Nevada City as follows:

<u>Section 1: Amendment to Section 13.20.020 – Definitions.</u>

The following definitions in Nevada City Municipal Code Section 13.20.020 "Definitions" are amended to read as follows:

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before October 27, 1997.

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after October 27, 1997, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of

utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed on or after October 27, 1997.

The following definitions in Nevada City Municipal Code Section 13.20.020 “Definitions” are added as follows:

“Base Flood Elevation (BFE)” The elevation of surface water resulting from a flood that has a 1percent chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, AR/AO, V1–V30 and VE.

“Floodproofing” Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents

“Freeboard” An additional amount of height above the Base Flood Elevation used as a factor of safety (e.g., 2 feet above the Base Flood) in determining the level at which a structure's lowest floor must be elevated or floodproofed to be in accordance with state or community floodplain management regulations.

Section 2: Amendment to Section 13.20.030 -General provisions.

Subdivision (B), of Nevada City Municipal Code Section 13.20.030 shall be amended to read as follows:

“B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the February 3, 2010, Flood Insurance Study (FIS) and accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the city council by the floodplain administrator. The study, FIRMs and FBFMs are on file at City Hall, 317 Broad Street, Nevada City, California 95959.”

Section 3: Amendment to Section 13.20.040 – Administration.

Subsection (7) of Subdivision (C) entitled “Duties and Responsibilities of the Floodplain Administrator” of Nevada City Municipal Code Section 13.20.040 shall be added to read as follows:

13.20.040 - Administration.

“7. Submit Updates of Technical Data to FEMA. Notify FEMA of changes in the base flood elevation by submitting technical or scientific data (so insurance and floodplain management can be based on current data) within 6 months of discovery of any such change. “

Section 4: Amendment to Section 13.20.050 -Provisions for flood hazard reduction, subdivision (A), subsection (3).

Subsection 3 (Elevation and Floodproofing) of Subdivision A (Standards of Construction) of Nevada City Municipal Code Section 13.20.050 (Provision for flood hazard reduction) shall be amended to read as follows:

3. Elevation and Floodproofing. (See Section 13.20.020 definitions for "basement," "lowest floor," "new construction," "substantial damage" and "substantial improvement".)

   a. Residential construction, new or substantial improvement, shall have the lowest floor, including basement:

      i. In an AO zone, elevated at least two (2) feet above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM plus one (1) foot of freeboard, or elevated at least two (2) feet above the highest adjacent grade plus one (1) foot of freeboard if no depth number is specified;

      ii. In an A zone without a base flood elevation specified on the FIRM: elevated at least two (2) feet) or above the base flood elevation, as determined under 13.20.040.C.2 plus one (1) foot of freeboard;

      iii. In all other zones, elevated at least two (2) feet above the base flood elevation specified on the FIRM plus one (1) foot of freeboard, or as determined under 13.20.040.C.2 where no base flood elevation is specified plus one (1) foot of freeboard .

   Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator.

Section 5: Amendment to Section 13.20.050 - Provisions for flood hazard reduction, subdivision (D)

Subdivision D (Standards for Manufactured Homes) of Nevada City Municipal Code Section 13.20.050 (Provision for flood hazard reduction) shall be amended to read as follows:

"D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved, within Zones A1-A30, and AH, on sites located:

   a. Outside a manufactured home park or subdivision;

   b. In a new manufactured home park or subdivision;

   c. In an expansion to an existing manufactured home park or subdivision; or

   d. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least two (2) feet above the base flood elevation specified on the FIRM plus one (1) foot of freeboard, or as determined under 13.20.040.C.2 where no base flood elevation is specified plus one (1) foot of freeboard and be securely fastened to an adequately anchored foundation system to resist flotation collapse and lateral movement.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-A30, AH, AE, V1-30, V, and VE on the community's flood insurance rate map that are not subject to the provisions of subsection (D)(1) of this section will be elevated so that either the:

   a. Lowest floor of the manufactured home is elevated at least two (2) feet above the base flood elevation specified on the FIRM plus one (1) foot of freeboard, or as determined under 13.20.040.C.2 where no base flood elevation is specified plus one (1) foot of freeboard or

   b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade."

Section 6. Findings:

A. The City Council hereby finds and declares that this Ordinance is exempt from California Environmental Quality Act (CEQA) review pursuant to the CEQA guidelines, including §15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to

the environment, and §15060(c)(2) as an activity that does not create a potential for direct or reasonably foreseeable indirect physical change in the environment.

Section 6: Effective Date and Publishing Requirement.

This Ordinance shall become effective thirty (30) days after the adoption date thereof and within fifteen (15) days of the passage of this Ordinance, the City Clerk shall publish this Ordinance in The Union, a newspaper of general circulation.

PASSED AND ADOPTED at a regularly scheduled meeting of the City Council of Nevada City held this 8th day of July, 2020 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Erin Minnett, Mayor

ATTEST:

_____
Niel Locke, City Clerk

NEVADA COUNTY RELIEF FUND

WWW.NEVCORELIEF.ORG

RECEIVED
JUN 11 2020
CITY OF NEVADA CITY

June 7, 2020

Ms. Catrina Olson, City Manager
City of Nevada City
317 Broad Street
Nevada City, CA 95959

Dear Ms. Olson,

Thank you very much for your donation to the Nevada County Relief Fund (NCRF) for which Sierra Nevada Memorial Hospital Foundation is serving as fiscal sponsor. Your thoughtful and generous donation of $5,000.00 to NCRF is tax deductible as allowed by law. While gift amounts are not shared, donors may be listed on the NCRF website at www.nevcorelief.org or acknowledged in other ways. If you wish your gift to remain anonymous and have not informed us of that, please let me know.

Should you have any questions or need additional information, please do not hesitate to contact me at (530) 477-9700 or kimberly.parker1@dignityhealth.org. On behalf of the many individuals working with the Nevada County Relief Fund, as well as the recipients of your generosity, thank you again.

In gratitude,

Kimberly Parker

Kimberly Parker, CFRE
Fiscal sponsor for NCRF

KP/jb

Please express our deep appreciation for this generosity that will benefit so many in our community

Sierra Nevada Memorial Hospital Foundation is a 501(c)(3) non-profit corporation with a tax ID of 68-0005939.

NEVADA COUNTY GRAND JURY

Eric Rood Administration Center
950 Maidu Avenue
Nevada City, California 95959
Telephone: 530-265-1730
Email:grandjury@nccourt.net

June 18, 2020

Chief Sam Goodspeed
Nevada City Fire Department
317 Broad Street
Nevada City, CA 95959

Dear Chief Goodspeed:

Enclosed is a copy of a report prepared by the Grand Jury titled *FIRE INSPECTION IN NEVADA COUNTY - What We Don't Know Can Hurt Us.* The report does not require a response by your department but your department is affected by the report and so we are sending you a pre-publication copy pursuant to Penal Code § 933.05(f).

This report will be published on June 23, 2020, at 11:00 a.m. It will be posted on the Grand Jury's website: http://nccourt.net/divisions/gj-reports.shtml. California Penal Code § 933.05 prohibits disclosure of any portion of this report prior to its publication by the Grand Jury.

The Grand Jury appreciates your cooperation.

Gordon Mangel
Foreperson
2019-2020 Nevada County Grand Jury

FIRE INSPECTION IN NEVADA COUNTY

What We Don't Know Can Hurt Us

2019-2020 Nevada County Grand Jury

Report Date: May 19, 2020

Public Release Date: June 23, 2020

FIRE INSPECTION IN NEVADA COUNTY
What We Don't Know Can Hurt Us

Summary

The 2019-2020 Nevada County Grand Jury (Jury) poses the question: Do citizens assume that places which their families frequent such as restaurants, theaters, and places of worship and public assembly have been inspected regularly and are safe?

The Jury became aware of potential public safety issues through interviews with fire safety personnel working within Nevada County (County). The Jury investigated the safety of buildings and places of public assembly to determine who was responsible and what fire inspections were performed.

California Health and Safety Code (HSC) §§ 13143-13146, 17921 and 17958 establish the responsibility for enforcement of building standards adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The law requires every fire agency, including all fire departments and fire protection districts, in the state to enforce, within their areas of responsibilities, the building standards and fire safety regulations adopted by the State Fire Marshal; including annual inspections of public and private schools, hotels, motels, lodging houses, apartments, multi-family residences of three or more units, and biennial inspections of jails. Effective January 1, 2019, fire agencies are also required to report annually their compliance with the mandated inspections to their administering authority as defined in the legislation.

In this investigation the Jury developed and distributed a *Fire District and Department Inspection Survey* to all eleven fire agencies within the County requesting information on current inspection activity. It determined that there are significant differences among the eleven fire agencies covering the County, and gaps in the conduct of fire inspections. These gaps include the types of facilities inspected, the number and frequency of inspections, and the follow-up of violations. The citizens of the County may find it surprising that regular fire inspections of theaters, places of worship, restaurants, and other public or event centers are not mandated by the state.

Public assembly site and building fire inspections are intended to reduce the risk and severity of fire and limit injury or death when fires do occur. The County has eleven fire agencies that work to perform the fire inspections required by the State, and some fire agencies voluntarily provide additional inspection services. The choices made by the various agencies are not consistent, not uniformly performed, or consistently documented. While many inspections mandated by the State are regularly conducted, a great many areas within the County where people congregate for social, civic, religious activities, and to participate in large public events are not regularly inspected.

Ultimately, it is up to the citizens to decide what level of inspection service they want for themselves, their families, and their community. Then, they must be prepared to work with their local and state agencies to adopt ordinances or policies to reflect a higher level of inspection activity and support funding initiatives as necessary to achieve that goal.

Glossary

County	Nevada County
Jury	2019-2020 Nevada County Grand Jury
CFD	Nevada County Consolidated Fire District
FD	Fire Department
FPD	Fire Protection District
HSC	California Health and Safety Code
TI	Tenant Improvement

Background

The Jury is a judicial body impaneled as an arm of the Nevada County Superior Court as authorized by the state constitution to act as a voice of the people and conscience of the community.

HSC §§ 13143-13146, 17921 and 17958 establish the responsibility for enforcement of building standards adopted by the State Fire Marshal for the prevention of fire or for the protection of life and property against fire or panic.

The law requires every fire agency in the state to enforce, within their jurisdiction, the building standards and fire safety regulations adopted by the State Fire Marshal; including annual inspections of public and private schools, hotels, motels, lodging houses, apartments, multi-family residences of three or more units, and biennial inspections of jails.

Additionally, HSC § 13146.4, effective January 1, 2019, requires every fire agency required to perform these annual inspections to make a report to their administering authority every year on their level of compliance with the mandate. See Appendix B. The administering authorities of fire agencies may adopt ordinances or policies to include non-mandated fire inspections in their areas of responsibility.

The fire agencies providing fire services in Nevada County are:

Grass Valley Fire Department (FD)
Higgins Fire Protection District (FPD)
Nevada City FD
Nevada County Consolidated Fire District (CFD)

North San Juan FPD
Ophir Hill FPD
Peardale-Chicago Park FPD
Penn Valley FPD
Rough & Ready FPD
Truckee FPD
Washington FD

Approach

The Jury became aware of potential public safety issues through interviews with fire safety personnel working within the County. The Jury investigated the safety of buildings and places of public assembly to determine who was responsible and what fire inspections were performed.

After research into previous grand jury reports and current California state requirements for fire inspections, an investigation into public assembly and building safety in the County was initiated.

In this investigation the Jury developed and distributed a *Fire District and Department Inspection Survey* to all eleven fire agencies within the County in October and November 2019. The survey requested information on current inspection activity. The Jury also interviewed personnel from fire agencies throughout the county, conducted internet research, and reviewed information available in other counties.

Discussion

The Jury investigated the safety of buildings in the County to determine who was responsible for inspections and what inspections were performed. It determined that there are significant differences among the eleven fire agencies covering the County, and gaps in the conduct of fire inspections. These gaps include the types of facilities inspected, the number and frequency of inspections, and the follow-up of violations. The citizens of the County may find it surprising that regular fire inspection of theaters, places of worship, restaurants, and other public or event centers are not mandated by the State. The State mandated inspections are schools, certain care facilities, apartments, multi-family units, hotels, motels, some temporary residences, and jails.

Fire agencies working within the County are required to conduct state mandated inspections. Many agencies are also conducting non-mandated inspections on a less regular schedule, often only as a result of a complaint, incident report, or as part of a building permit process.

Effective January 1, 2019, fire agencies are required to report annually to their administering authorities on their level of compliance with inspection requirements. Six fire agencies reported they had complied with this reporting mandate, four said they would be complying in 2020, and

one did not respond to the survey. However, the Jury's review of the submitted reports identified a number of deficiencies, such as failure to identify the number of mandated inspections required and the number completed.

The Jury also noted that several fire agencies cited funding and lack of personnel as contributing factors for the low level of inspections. Although the HSC allows fire agencies to collect fees for inspection services, only five of the fire agencies in the county reported that they charge fees for inspection and associated services. See additional details in Appendix A.

The County's eleven fire agencies rely on a mixture of full-time paid, part-time paid, volunteer, intern, and seasonal fire fighters. Three fire agencies indicated they were an all-volunteer agency, which would allow them to request assistance completing required inspections as allowed by § 13146.6 of the HSC from other fire agencies. See Appendix B.

Typical areas of inspection are listed below.

- Occupancy capacity
- Means of Egress/Exit
- Fire Alarms
- Fire Extinguishers
- Elevators
- Lighting
- Flame Retardant Materials
- Electrical
- Platforms and Stages
- Housekeeping

In addition to fire fighting and fire inspections, fire agencies working within the County may provide other services such as, emergency medical services, hazardous materials incident response, and fire prevention information.

Other County agencies, such as those involved with law enforcement, environmental health, planning, and code compliance, inspect buildings within the County for compliance with their ordinances or regulations. However, fire agencies are the primary agencies mandated by the state to perform certain fire inspections on a fixed schedule.

The following information was self-reported in response to the *Fire District and Department Inspection Survey* distributed in October and November of 2019 and received within three months, to gather information on current inspection processes in the County. The Jury found from the survey responses that not all of the fire agencies accurately reported the number of buildings within their areas of responsibilities that they were required to inspect.

Mandated Inspections

Schools

An annual fire inspection of all buildings used for educating K-12 students, including public, private, and faith-based schools. Private residences used for homeschooling are not included. Inspectors enter classrooms and other areas to perform inspections.

Total number of schools in the County as reported by fire agencies	50
Number inspected within the last year as required	44

Most of the fire agencies reported having inspected all of their schools in the last year, however, one reported not inspecting five schools and one uninspected school is shown as "Pending" from 2016.

State Licensed Care Facilities

Fire inspections are required for California Department of Social Services-licensed care facilities initially, annually, and when significant changes are introduced in the facility or how it is used. Examples include residential care facilities for the elderly and disabled and assisted living facilities.

Total number of care facilities in the County as reported by fire agencies	22
Number inspected within the last year as required	22

Four fire agencies working within the County reported having licensed care facilities in their area of responsibility, all of which were inspected within the last year.

Multi-Family and Temporary Residences

Public areas of multi-family residences of three units or more must be inspected annually by the fire department. These include apartments, condominiums, triplexes, and temporary residences such as hotels, motels and boarding houses. Annual fire inspection requirements in California do not apply to single-family residences or duplexes. Inspectors are only authorized to inspect common areas such as hallways, stairwells, and the exterior of buildings.

<u>Multi-Family Residences</u>

Total number of multi-family residences in the County as reported by fire agencies	180

Number inspected within the last year as required	25

Only five fire agencies reported having apartments, condominiums, triplexes, but the majority of those residences were not inspected as required. Two fire agencies reported being up-to-date with these inspections. Apartment dwellers should be aware that one jurisdiction reported 128 such facilities uninspected since at least 2015 and another 14 with date unknown.

Temporary Residences

Total number of temporary residences in the County as reported by fire agencies	26
Number inspected within the last year as required	22

The Jury has no authoritative count of the number of County hotels, motels, bed and breakfasts, and boarding houses, but a quick web search or drive around the neighborhoods of our most populated areas suggest that the County has many overlooked temporary residences. The total number of uninspected units is certainly more than four.

Only one western county fire agency reported having any hotels, motels or boarding houses, and of those, it reported inspecting only five of the eight required, with the others inspected in 2018.

Jails

Jails and places of detention are required to have fire inspections at least once every two years.

Total number of jails in the County as reported by fire agencies	2
Number inspected within the last two years	1

One jail was reported not inspected within the last two years. It was last inspected in 2017.

Annual Inspection Report

HSC § 13146.4 effective January 1, 2019, requires fire agencies to make a summary report to their administering authority every year on their level of compliance conducting the annual inspections mandated by the HSC. The administering authority is required to acknowledge receipt of the report in the form of a resolution or similar formal document. All of the fire agencies were required to comply with this law in 2019.

Total number of fire agencies in the county	11
Number of fire agencies that reported compliance with the requirements as of November 2019:	6

Additional Inspections – Not Mandated

Citizens might be surprised to learn that fire agencies are not required by State law to inspect other categories of facilities that are open to the public. However, some fire agencies perform inspections on public assembly sites and buildings of their own volition, even though they are not required to do so by state and local mandates. Inspections are sometimes required for new construction or modification of buildings such as high-rise facilities, businesses, factories, storage facilities, and places of public assembly of 50 or more persons. But more often they are the result of the certain knowledge that inspections can help prevent fires, regardless of their optional nature. The following paragraphs present the results of the Jury's questions about non-mandated inspections.

The Jury asked fire agencies about inspections of theaters, churches, restaurants, and event centers in their areas of jurisdiction. The results are:

Theaters

Total number of theaters in the County as reported by fire agencies	5
Number inspected in 2019	1

Two fire departments reported having a total of five theaters in western Nevada County, but they inspected only one in the last year. Four theaters were reported going uninspected in 2019; one was last inspected in 2016; and the others were inspected prior to 2012.

Places of Worship

Total number of places of worship in the County as reported by fire agencies	50
Number inspected in 2019	27

Seven fire agencies reported having churches in their jurisdictions, but only four agencies are inspecting all of them regularly. Many places of worship are not inspected. Twenty-three places of worship were reported not inspected in 2019; one was reported last inspected in 2016; and one was inspected in 2015. Twenty-one were reported last inspected prior to 2015 or the date was unknown.

Restaurants

Total number of restaurants in the County as reported by fire agencies	143
Number inspected in 2019	44

Because of the fire danger associated with food preparation, citizens might expect that restaurants routinely receive fire inspections. Seven of the fire agencies reported restaurants in their areas of responsibility, but only 44 of 143 were inspected in the last year. Twenty-five restaurants were reported last inspected in 2018, twenty-six in 2017, twenty-five in 2016, and twelve in 2015. Eleven were reported last inspected prior to 2015 or the date was unknown.

Public or Event Centers

Total number of public or event centers in the County as reported by fire agencies	72
Number inspected in 2019	48

Seven fire agencies reported the presence of a total of 72 public event centers in their areas. Of that number, 24 were reported not inspected in 2019. One was reported last inspected in 2018, one in 2017, four were in 2016, and three in 2015. Fifteen were reported last inspected prior to 2015 or the date was unknown.

Conclusions

The Jury poses the question: Do citizens assume that places which their families frequent such as restaurants, theaters, and places of worship and public assembly have been inspected regularly and are safe?

Public assembly site and building fire inspections are intended to reduce the risk and severity of fire and limit injury or death when fires do occur. The County has eleven fire agencies that work to perform the fire inspections required by the State, and some fire agencies voluntarily provide additional inspection services. The choices made by the various agencies are not consistent, not uniformly performed, or consistently documented. While many inspections mandated by the State are regularly conducted, a great many areas within the County where people congregate for social, civic, or religious activities, and to participate in large public events are not regularly inspected.

Ultimately, it is up to the citizens to decide what level of inspection service they want for themselves, their families, and their community. They must be prepared to work with their local and state agencies to adopt ordinances or policies to reflect a higher level of inspection activity and support funding initiatives as necessary to achieve that goal.

Findings

F1 Two fire agencies reported that they were not current with mandated school inspections.

F2 All fire agencies that reported licensed care facilities in their jurisdictions reported that they were current with the mandated inspections.

F3 Two fire agencies reported that they were not current with mandated multi-family unit and temporary residence fire inspections.

F4 One fire agency reported that it was not current with mandated jail inspections.

F5 As of October and November 2019, six fire agencies reported they had completed the annual report required by HSC § 13146.4. The remaining agencies had until December 31, 2019 to meet the requirement to report to their administering authority.

F6 One volunteer fire agency hired a County fire inspector to perform its required inspections, although it failed to report the results as required by the HSC.

F7 Five fire agencies reported that they did not charge fees for inspections and one did not report whether or not it charged for fire inspections

F8 The administering authorities of fire agencies may adopt ordinances or policies to include non-mandated fire inspections in their areas of responsibility.

Recommendations

The Nevada County Grand Jury recommends the following.

R1 Fire agencies should review and comply with HSC § 13146.3 to conduct the mandated annual school fire inspections within their areas of responsibility.

R2 Fire agencies should review and comply with the requirement to conduct the mandated annual licensed care facilities fire inspections within their areas of responsibility.

R3 Fire agencies should review and comply with HSC § 13146 to conduct the mandated annual multi-family and temporary residence fire inspections within their areas of responsibility.

R4 Fire agencies should review and comply with the requirement to conduct mandated biennial jail fire inspections within their areas of responsibility.

R5 Fire agencies should review and comply with HSC § 13146.4 requiring every fire department or fire district to report to their administering authority every year on their level of compliance with the inspection mandates.

R6 Higgins, Ophir Hill, Peardale-Chicago Park, and Rough and Ready FPDs, and Washington FD should consider charging for fire inspections and other services to improve their financial position as necessary.

R7 North San Juan FPD should obtain fire inspection data from the County Fire Inspector hired to perform the agency fire inspections and provide it to its administering authority.

Request for Responses

No responses are requested.

Appendices

Appendix A. Charging Fees for Inspections and Other Services

District	Reported Fees Status as of November 30, 2019
Grass Valley Fire Department	Yes
Higgins Fire Protection District	No
Nevada City Fire Department	Yes
Nevada County Consolidated Fire District	Yes
North San Juan Fire Protection District	*
Ophir Hill Fire Protection District	No
Peardale-Chicago Park Fire Protection District	No
Penn Valley Fire Protection District	Yes
Rough & Ready Fire Protection District	No
Truckee Fire Protection District	Yes
Washington Fire Department	No

*North San Juan Fire Protection District did not report fee status.

Appendix B. California Health and Safety Code, §§ 13146 - §13146.6

§ 13146.

(a) The responsibility for enforcement of building standards adopted by the State Fire Marshal and published in the California Building Standards Code relating to fire and panic safety and other regulations of the State Fire Marshal shall be as follows:
(1) The city, county, or city and county with areas of responsibilities in the area affected by the standard or regulation shall delegate the enforcement of the building standards relating to fire and panic safety and other regulations of the State Fire Marshal as they relate to R-3 dwellings, as described in Section 310.5 of Part 2 of the California Building Standards Code, to either of the following:
(A) The chief of the fire authority of the city, county, or city and county, or the chief's authorized representative.
(B) The chief building official of the city, county, or city and county, or the official's authorized representative.
(2) The chief of any city, county, or city and county fire department or of any fire protection district, and their authorized representatives, shall enforce within its areas of responsibilities the building standards and other regulations of the State Fire Marshal, except those described in paragraph (1) or (4).
(3) The State Fire Marshal shall have authority to enforce the building standards and other regulations of the State Fire Marshal in areas outside of corporate cities and districts providing fire protection services.
(4) The State Fire Marshal shall have authority to enforce the building standards and other regulations of the State Fire Marshal in corporate cities and districts providing fire protection services upon request of the chief fire official or the governing body.
(5) The State Fire Marshal shall enforce the building standards and other regulations of the State Fire Marshal on all University of California campuses and properties administered or occupied by the University of California and on all California State University campuses and properties administered or occupied by the California State University. For each university campus or property the State Fire Marshal may delegate that responsibility to the person of the State Fire Marshal's choice who shall be known as the Designated Campus Fire Marshal.
(b) A fee may be charged pursuant to the enforcement authority of this section but shall not exceed the estimated reasonable cost of providing the service for which the fee is charged, pursuant to Section 66014 of the Government Code.

§ 13146.1.

(a) Notwithstanding Section 13146, the State Fire Marshal, or the State Fire Marshal's authorized representative, shall inspect every jail or place of detention for persons charged with or convicted of a crime, unless the chief of any city, county, or city and county fire department or fire protection district, or that chief's authorized representative, indicates in writing to the State Fire Marshal, by June 30 of each applicable year pursuant to subdivision (b), that inspections of jails or places of detention, therein, shall be conducted by the chief, or the chief's authorized representative, and submits the reports as required in subdivision (c).

(b) The inspections shall be made at least once every two years for the purpose of enforcing the regulations adopted by the State Fire Marshal, pursuant to Section 13143, and the minimum standards pertaining to fire and life safety adopted by the Board of State and Community Corrections, pursuant to Section 6030 of the Penal Code.
(c) Reports of the inspections shall be submitted to the official in charge of the facility, the local governing body, the State Fire Marshal, and the Board of Corrections within 30 days of the inspections.
(d) The State Fire Marshal, or the State Fire Marshal's authorized representative, who performs an inspection pursuant to subdivision (a) may charge and collect a fee for the inspection from the local government. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

§ 13146.2.
(a) Every city, county, or city and county fire department or district providing fire protection services required by Sections 13145 and 13146 to enforce building standards adopted by the State Fire Marshal and other regulations of the State Fire Marshal shall, annually, inspect all structures subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal.
(b) A city, county, or city and county fire department or district providing fire protection services that inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection from the owner of the structure in an amount, as determined by the city, county, or city and county fire department or district providing fire protection services, sufficient to pay the costs of that inspection.
(c) A city, county, or city and county fire department or district providing fire protection services that provides related fire and life safety activities for structures subject to subdivision (b) of Section 17921, such as plan review, construction consulting, fire watch, and investigation, may charge and collect a fee from the owner of the structure in an amount, as determined by the city, county, city and county, or district, sufficient to pay the costs of those related fire and life safety activities.
(d) The State Fire Marshal, or the State Fire Marshal's authorized representative, who inspects a structure subject to subdivision (b) of Section 17921, except dwellings, for compliance with building standards and other regulations of the State Fire Marshal, may charge and collect a fee for the inspection from the owner of the structure. The State Fire Marshal may also charge and collect a fee from the owner of the structure for related fire and life safety activities, such as plan review, construction consulting, fire watch, and investigation. Any fee collected pursuant to this subdivision shall be in an amount, as determined by the State Fire Marshal, sufficient to pay the costs of that inspection or those related fire and life safety activities.

§ 13146.3.
(a) A city, county, or city and county fire department or district providing fire protection services shall inspect every building used as a public or private school within its jurisdiction, for the purpose of enforcing regulations promulgated pursuant to Section 13143, not less than once each year. The State Fire Marshal and the State Fire Marshal's authorized representatives shall make

these inspections not less than once each year in areas outside of corporate cities and districts providing fire protection services.
(b) A city, county, or city and county fire department or district that, or the State Fire Marshal or the State Fire Marshal's authorized representative who, inspects a structure pursuant to subdivision (a) may charge and collect a fee for the inspection in an amount sufficient to pay the costs of that inspection.

§ 13146.4.
(a) Every city or county fire department, city and county fire department, or district required to perform an annual inspection pursuant to Sections 13146.2 and 13146.3 shall report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3.
(b) The report made pursuant to subdivision (a) shall occur when the administering authority discusses its annual budget, or at another time determined by the administering authority.
(c) The administering authority shall acknowledge receipt of the report made pursuant to subdivision (a) in a resolution or a similar formal document.
(d) For purposes of this section, "administering authority" means a city council, county board of supervisors, or district board, as the case may be.

§ 13146.5.
The provisions of Sections 13145, 13146 and 13146.3 shall, so far as practicable, be carried out at the local level by persons who are regular full-time members of a regularly organized fire department of a city, county, or district providing fire protection services, and shall not be carried out by other persons pursuant to Section 34004 of the Government Code.

§ 13146.6.
If the governing body of a city, county, or city and county fire department or district providing fire protection services relies on an all-volunteer fire department for the provision of fire protection services pursuant to Sections 13145, 13146, 13146.2, and 13146.3, they may do so through one of the following methods:
(a) They may request the State Fire Marshal to enforce the building standards and other regulations of the State Fire Marshal, in accordance with paragraph (4) of subdivision (a) of Section 13146.
(b) They may request another city, county, or city and county fire department or district providing fire protection services that has regular full-time members of a regularly organized fire department to enforce the building standards and other regulations of the State Fire Marshal.