

CITY OF YUBA CITY
STAFF REPORT

Date: December 17, 2019

To: Honorable Mayor & Members of the City Council

From: Police Department

Presentation by: Robert D. Landon, Interim Public Safety Chief

Summary

Subject: Camping and Storage of Personal Property Ordinance

Recommendation: A. Conduct a Public Hearing and after consideration,

B. Introduce an Ordinance adding Chapter 5.23 Camping and Storage of Personal Property on Private and Public Property to Title V (Public Welfare, Morals, and Conduct) of the Yuba City Municipal Code, and waiving the first reading.

Fiscal Impact: Unknown at this time. Costs will include a temporary storage container, staff time to release and store property, cleanup costs associated with the collection and/or cleanup of unauthorized personal property.

Purpose:

Improving the quality of life through a regionally consistent Camping and Storage of Personal Property Ordinance while preserving the rights of all citizens.

Background:

Over the last few years, in Sutter and Yuba County, as in other jurisdictions throughout California there has been a significant increase in the unauthorized camping and storage of personal property both on public and private land. This proliferation of unauthorized camping and storage of property has brought with it social economic and environmental concerns along with public health and safety issues. In Sutter County the increase of unauthorized camping and storage of personal property near waterways and levees have proven to be the most problematic.

Historically Sutter and Yuba County law enforcement agencies have not had consistent ordinances specifically addressing location where and times when camping and storage of personal property on public and private property is allowed and when it is prohibited. This has led to issues in attempting to stem the rising tide of unauthorized camping. Often times the unauthorized camping is seen in conjunction with the accumulation of property that is a biological or environmental hazard. While the existence of this material lends itself to enforcement actions, a clear understandable ordinance regulating camping and storage of personal property is a more direct and effective way to resolve the issues.

The City of Yuba City has partnered with neighboring jurisdictions, various non-profit and faith-based organizations to enhance and coordinate all aspects of intervention activities and enforcement response to the hazardous conditions created by unpermitted camping and storage of

personal property in areas that are not appropriate or safe to conduct those activities. In creating a more uniform approach it became clear that a specific ordinance was needed to ensure our process complied with state laws while retaining the necessary flexibility for a regional solution.

Analysis:

The proposed ordinance creates reasonable regulations that apply to all citizens that camp or store personal property within the incorporated area of Yuba City. The overall purpose of this Ordinance is to preserve the rights of all citizens within the City so as to maintain certain areas of land for the purpose for which they were intended to be used, to maintain the integrity of the levee system that protects Yuba City residents, businesses and environment, protect the health of riparian habitats and waterways as well as to protect the rights of individuals that may be subject to personal property removal. The proposed ordinance is being implemented across the Yuba/Sutter County law enforcement jurisdictions to create a uniform policy.

The proposed ordinance:

1. Provides specific rules related to areas of the City that are not safe to camp, and specifically in areas that are designated as floodways or in areas that are within the water side of our levees.
2. Places reasonable restrictions on where people may store their personal belongings.
3. Provides for specific noticing and time requirements for individuals that are violating the ordinance as well as uniform procedures for removal of personal property including the personal property's storage, recovery and disposal. The process includes provisions for an informal hearing process so that individuals have the ability to exercise their right to appeal the determination that their personal property is creating a hazardous condition.

The proposed ordinance was developed in consultation with Yuba County. A draft of the ordinance was sent to California Rural Legal Assistance (CRLA) on October 15, 2019.

Environmental:

The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA (California Environmental Quality Act), the State CEQA Guidelines, and the environmental regulations of the City. Staff finds and recommends that the proposed ordinance is not a "project" for the purposes of CEQA Guidelines Section 15378, as it promotes environmental conditions by providing a more environmentally sound process to prevent and protect against environmental and physical damage related to flooding, damages arising from debris, trash, biological hazards, pollution to waterways, etc. The proposed ordinance provides for administrative enforcement of the same, and will not result in direct or indirect substantial, adverse physical changes in the environment as compared to the current baseline. Therefore, the proposed ordinance is not subject to CEQA. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purposes of CEQA, there is no possibility that this project may have a significant adverse effect on the environment pursuant to CEQA Guidelines, Section 15061(b)(3).

Furthermore, the City Council determines that the subject ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15308 (actions by a regulatory agency for protection of the environment), 15269 (emergency projects), and 15321 (enforcement actions by regulatory agencies). None of the exceptions to the Categorical Exemptions set forth under CEQA Guidelines Section 15300.2 are applicable to this project.

Fiscal Impact:

Unknown at this time. Costs will include a temporary storage container, staff time to release and store property, cleanup costs associated with the collection and/or cleanup of unauthorized personal property.

Alternatives:

1. Provide direction to staff as to changes which should be incorporated into the ordinance.
2. Take no action on the ordinance.

Recommendation:

- A. Conduct a Public Hearing and after consideration,
- B. Introduce an ordinance adding Chapter 5.23 Camping and Storage of Personal Property on Private and Public Property to Title V (Public Welfare, Morals, and Conduct) of the Yuba City Municipal Code, and waiving the first reading.

Attachments:

1. Chapter 5.23- Camping and Storage of Personal Property on Private and Public Property. (proposed)

Prepared by:

/s/ Robert D. Landon
Robert D. Landon
Interim Public Safety Chief

Submitted by:

/s/ Michael Rock
Michael Rock
City Manager

Reviewed by:

Finance

RB

City Attorney

SLC by email

ATTACHMENT 1

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUBA CITY ADDING A NEW CHAPTER 5.23 (CAMPING AND STORAGE OF PERSONAL PROPERTY ON PRIVATE AND PUBLIC PROPERTY) TO TITLE V (PUBLIC WELFARE, MORALS, AND CONDUCT) OF THE YUBA CITY MUNICIPAL CODE

WHEREAS, the City Council of Yuba City (“City”) is authorized by the California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council has adopted the Yuba City Municipal Code, which it periodically updates to protect the public health, safety and welfare; and

WHEREAS, the County of Yuba is leading a County-wide approach to enforcement of camping regulations, including the storage of personal property collected on private and public property;

WHEREAS, City Council desires to introduce regulations into the Yuba City Municipal Code for camping and storage of personal property on private and public property, in a fair manner that best addresses the public health, safety and welfare.

NOW THEREFORE, the City Council of the City of Yuba City does ordain as follows:

SECTION 1. The above recitals are all true and correct and are hereby adopted as findings.

SECTION 2. The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA, the State CEQA Guidelines (“CEQA Guidelines”), and the environmental regulations of the City. The City Council finds and determines that the proposed ordinance is not a “project” for the purposes of CEQA and consistent with CEQA Guidelines Section 15378, as it promotes environmental conditions by providing a more environmentally sound process to

prevent and protect against environmental and physical damage related to flooding, damages arising from debris, trash, biological hazards, pollution to waterways, etc. The Ordinance provides for administrative enforcement of the same, and will not result in direct or indirect substantial, adverse physical changes in the environment as compared to the current baseline. Therefore, the proposed ordinance is not subject to CEQA. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purposes of CEQA, there is no possibility that this project may have a significant adverse effect on the environment pursuant to CEQA Guidelines, Section 15061(b)(3). Furthermore, the City Council determines that the subject ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15308 (actions by a regulatory agency for protection of the environment), 15269 (emergency projects), and 15321 (enforcement actions by regulatory agencies). None of the exceptions to the Categorical Exemptions set forth under CEQA Guidelines Section 15300.2 are applicable to this project. The proposed ordinance was assessed in accordance with the authority and criteria contained in CEQA, the State CEQA Guidelines (“CEQA Guidelines”), and the environmental regulations of the City. The City Council finds and determines that the proposed ordinance is not a “project” for the purposes of CEQA and consistent with CEQA Guidelines Section 15378, as it promotes environmental conditions by providing a more environmentally sound process to ensure removal of garden refuse, etc., provides for administrative enforcement of the same, and will not result in direct or indirect substantial, adverse physical changes in the environment as compared to the current baseline. Additionally, the City Council finds and determines for the same reasons that even if the proposed ordinance were a project for the purposes of CEQA, there is no possibility that this project may have a significant adverse effect on the environment pursuant to CEQA Guidelines, Section 15061(b)(3). Therefore, the proposed ordinance is not subject to CEQA.

SECTION 3.

Chapter 5.23 Camping and Storage of Personal Property on Private and

Public Property is hereby added to Title V (Public Welfare, Morals, and Conduct) of the Yuba City

Municipal Code to read as follows:

CHAPTER 5.23 – CAMPING AND STORAGE OF PERSONAL PROPERTY ON PRIVATE AND PUBLIC PROPERTY

- 5.23.010. – Declaration of Legislative Intent – Purpose.
- 5.23.020. – Findings.
- 5.23.030. – Application.
- 5.23.040. – Definitions.
- 5.23.050. – Unlawful Camping.
- 5.23.060. – Unlawful Daytime Camping.
- 5.23.070. – Stored property – Impoundment.
- 5.23.080. – Mandatory Pre-Impoundment Notice.
- 5.23.090. – Informal Hearing.
- 5.23.100. – Storage, Post-Impoundment and Disposal.
- 5.23.110. – Proceeds of Sale.
- 5.23.120. – Repossession.
- 5.23.130. – City not Liable.
- 5.23.140. – Designated Areas.
- 5.23.150. – Penalty for violation.
- 5.23.160. – Non-exclusivity.
- 5.23.170. – Severability.

5.23.010. – Declaration of Legislative Intent – Purpose.

The purpose of this Chapter is to maintain streets, parks, waterways, and other public and private property within the City in a clean, sanitary, and accessible condition and to promote the public health, safety, and welfare of the community.

5.23.020. – Findings

The City Council finds that the unauthorized use of certain areas for camping purposes and the storage of personal property interferes with the rights of others to use the areas for which they were intended and creates a public health and safety hazard that adversely affects residential and commercial areas.

The City Council further finds that camping or storing personal property near the high water mark of waterways poses a serious risk to the quality of the waterways and the health and safety of citizens using the waterways and results in abandoned, unattended, or unsecured property polluting the waterways during high water flows.

The City Council further finds that camping or storing personal property on, upon, or within a 50 foot clear zone of the landside toe of the levees that protect the City and its residents from flooding

poses a threat to the public health, safety, and welfare by compromising the integrity of the levee system which could result in a catastrophic failure of the levee protections.

The City Council further finds that abandoned, unattended, or unsecured personal property especially such property which is a biological or health hazard creates pollution and adversely affects waterways, residential areas, and commercial areas and the health, safety, and welfare of the people who live, work, and visit the City.

The City Council further finds that unsanitary conditions and premises that contain an accumulation of junk, trash, debris, dead organic matter, offal, stagnant water, rodent harborages, or biological hazards are injurious to the health, safety, and welfare of the people who live, work, and visit the City and such conditions have a significant potential to cause economic or physical injury to persons and property.

The City Council further finds that camping or storing personal property on private property without the consent of the owner adversely affects private property rights as well as the health, safety, and welfare of the owner and the public generally.

5.23.030. – Application.

This chapter shall apply generally to all property throughout the boundaries of the City wherein any of the conditions herein specified are found to exist. Any condition or conduct that would constitute a violation of this chapter, but which is permitted or authorized under any City ordinance or state or federal law, shall not constitute a violation of this chapter.

5.23.040. – Definitions.

As used in this Chapter, unless the context clearly requires a different meaning, the words, terms and phrases set forth in this section shall have the meanings given them in this section.

- (a) “Biological hazards” means any waste containing infectious materials or potentially infectious substances, including but not limited to, human or animal blood, human or animal bodily fluids, human or animal tissue, or used needles or any sharp objects that have been contaminated with potentially infectious materials.
- (b) “Camp” or “Camping” means using property for living accommodation purposes, as evidenced by: (1) remaining for prolonged or repetitious periods of time, not associated with ordinary recreational use of the property as authorized under any other ordinance, law, or regulation, with one's personal possessions or belongings (including but not limited to clothing, tents, sleeping bags, bedrolls, blankets, sheets, pillows, luggage, backpacks, kitchen utensils, cookware, and cooking equipment); and (2) engaging in one or more of the following: sleeping, storing personal possessions or belongings, making a fire outside of a designated fire pit, or cooking meals. The combined activities of (1) and (2) constitute camping when it reasonably appears in light of all the circumstances that a person is using the property as a living accommodation.
- (c) “Camp facilities” means and includes, but is not limited to, tents, huts, temporary shelters, unpermitted structures and, when used for the purpose of sleeping, vehicles.

- (d) “Camp paraphernalia” means and includes, but is not limited to, tarpaulins, bedding, cots, beds, shopping carts, sleeping bags, hammocks, or other storage containers or similar equipment.
- (e) “Hazardous waste” means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.
- (f) “Health hazard” means hazardous waste, biological hazards, vector infestation, medical waste, or other health hazards in which exposure to them could reasonably be expected to do either of the following: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or (2) pose a substantial present or potential danger to human health, animal health, or the environment, due to factors including, but not limited to, carcinogenicity, toxicity, ignitability, bio- accumulative properties, reactivity, pollutants, or persistence in the environment, when improperly treated, stored, transported, or disposed of, or otherwise managed. The harm caused by the health hazard does not have to happen immediately.
- (g) “Imminent threat” means any conditions or practices existing on property which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this chapter including but not limited to activities such as the erection of structures in waterways or camping within 200 feet of the high water mark from October 15 through May 1.
- (h) “Levee” means a man-made barrier constructed of soil along a water course for the primary purpose of providing flood protection.
- (i) “Levee system” means one or more discrete reaches of levee and/or floodwall and other flood management structures along one or more streams that together provide flood protection to a common, defined area (i.e., the protected area).
- (j) “Levee toe” means the most landward point of the levee where the landside levee slope meets natural ground
- (k) “Median strip” means a strip or area, lying along the middle and between the paved portions of a highway, which is designed to divide vehicular traffic on such highway onto two opposite directions.
- (l) “Ordinary high water mark” means (1) the average level of the water attained in annual seasonal flow as demonstrated by the line below which the soil and vegetation show the effects of submersion under water; or (2) the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural

line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

- (m) “Park” or “Parks” means any park, playground, recreation center, or any other lands or facilities owned, operated, maintained, administered, or managed by the City and devoted to active or passive recreation including but not limited to those area identified as a parking in any General or Specific Plan of the City. The term “Park” includes all facilities or improvements within a park and all water or waterways within or adjacent to a park.
- (n) “Personal property” means any and all tangible property, and includes, but is not limited to, items, goods, materials, camp facilities, camp paraphernalia, merchandise, furniture, equipment, fixtures, structures, clothing, and household items. The term shall not include any vehicle as defined in Vehicle Code Section 670.
- (o) “Private property” means all private property, including but not limited to streets, sidewalks, alleys, and improved or unimproved land.
- (p) “Public property” means all property that is owned, managed or maintained by the City, and shall include, but not be limited to any street, access way, sidewalk, replacement sidewalk, median strip, space, ground, building, structure, public park, and any other property of the City.
- (q) “Serious physical harm” means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
- (r) “Sidewalk” means a paved walkway, bikeway, or combination of those designed for use by the public, generally within the public right-of-way and generally parallel to a public street.
- (s) “Trail facility” or “Trail facilities” means any class 1 trail, bicycle or multi-use trail, natural trail, or horseback riding trail that is owned, maintained, or operated by the City, including any area or access point adjoining the trail over which the City owns or maintains an easement. For purposes of this chapter, "trail facility" includes trails identified in the General Plan or any specific plan of the City.
- (t) “Unattended” means no person is present with the personal property who asserts or claims ownership over the personal property. Conversely, property is considered “Attended” if a person is present with the personal property and the person claims ownership over the personal property.
- (u) “Vector infestation” means personal property that has been invaded by insects, rodents, vermin and flying insects, including, but not limited, to bedbugs, cockroaches, flies, lice, mosquitos, ticks, insects, rat fleas, rats and mice, which are capable of transmitting disease-causing agents, such as a parasite, bacterium, or virus, to humans or animals.

5.23.050. - Unlawful camping.

- (a) With the exception of authorized Camping at a private or public campground or recreational vehicle park or Camping authorized under any other ordinance, law, or regulation, no person shall Camp in the following areas:
- (1) Any private property unless
 - (i) The person Camping (i) is the owner or tenant of the private property; (ii) is a family member or relative of an owner or tenant of the private property; (iii) is accompanied by an owner or tenant of the private property; or (iv) has written permission in his or her possession from an owner or tenant of the private property and the written permission includes the owner's or tenant's name, address, and phone number;
 - (ii) The Camping is not prohibited under Chapter 5.20 or any other ordinance, law, or regulation;
 - (iii) Any City Park or trail facility, except in locations designated for such purposes or pursuant to a lawfully issued permit;
 - (iv) Any City airport;
 - (v) Any City cemetery;
 - (vi) Any property that is within or below 200 feet above the Ordinary High Water Mark of any lake, waterway, river, stream, pond, or reservoir;
 - (vii) Any Levee or within 50 feet of the landside Levee Toe; and
 - (viii) Any City right of way including but not limited to public highways, roadway shoulders, sidewalks, or alleys so as to in any manner hinder or obstruct the free passage therein or thereon of any persons or vehicles passing or attempting to pass along the same right of way.
 - (2) Permitting of Camping in City parks shall be governed by Chapter 5.20

5.23.060. - Unlawful daytime camping.

For any City public property where Camping is not authorized under authority independent of this Chapter or not prohibited under Section 5.23.050, no person shall erect, configure, or construct a tent or other temporary shelter from thirty (30) minutes after sunrise to 30 minutes after sunset. A person must take down, fold, deconstruct, or put away any tent or temporary shelter erected, configured, or constructed in any such public property between the hours of thirty (30) minutes after sunrise to 30 minutes after sunset. Removal of property for a violation of this section pursuant to Section 5.23.070 is limited to the tent erected in violation of this section.

5.23.070. – Stored property – Impoundment.

- (a) No person shall store personal property in the following areas:
 - (1) Any private property unless the person (i) is the owner or tenant of the private property; (ii) is a family member or relative of an owner or tenant of the private property; (iii) is accompanied by an owner or tenant of the private property; (iv) has verbal or written consent of the owner and the property is stored inside a building or structure other than a tent; or (v) has written permission in his or her possession from an owner or tenant of the private property and the written permission includes the owner's or tenant's name, address, and phone number.
 - (2) Any City Park or trail facility.
 - (3) Any City airport unless inside a hanger and consistent with the terms of a lease.
 - (4) Any public property if the personal property obstructs City operations, including street or sidewalk maintenance or cleaning, or impedes passage on public streets, sidewalks, or alleys, including passage for persons with disability.
 - (5) Any public property that has a clearly posted closure time and the property is stored after the posted closure time.
 - (6) Any property that is within or below 200 feet above the Ordinary High Mark of any lake, waterway, river, stream, pond, or reservoir.
- (b) All personal property unlawfully stored pursuant to subdivision (a) of Section 5.23.070 may be impounded by the City.
- (c) Personal property placed on property in violation of this Chapter shall be deemed to be stored personal property if it has not been removed from the property within seventy-two (72) hours of service of the written notice required by Section 5.23.080, which requires such removal, and the City may cause the removal and impoundment of such stored personal property or destruction of such stored personal property as provided in subsection (d); provided that moving the personal property to another location in the same private or public property shall not be considered to be removing the personal property from private or public property; and provided further that this section shall not apply to personal property that, pursuant to statute, ordinance, permit, regulation, or other authorization by the City or state, is placed on property that is owned or controlled by the City.
- (d) In the event personal property placed in violation of this Chapter presents a Health Hazard, poses an Imminent Threat to the health, safety, or welfare of the public, is evidence of a crime, is perishable, or contraband, it may be immediately impounded, disposed of, or turned over to law enforcement at any time by the City and no written notice shall be required before impounding, removing or destroying such personal property.

5.23.080. – Mandatory pre-impoundment notice.

- (a) Before impounding or removing any personal property stored in violation of this Chapter, the City shall provide pre-impoundment notice. The written notice shall contain the following:
- (1) A description of the personal property to be removed (such description may refer to an attached photograph);
 - (2) The location of the personal property;
 - (3) The date and time the notice was posted;
 - (4) The section of the Yuba City Municipal Code that is being violated;
 - (5) A statement that the personal property will be impounded if not removed within seventy-two (72) hours;
 - (6) The address where the removed personal property will be located, including a telephone number through which a person may receive information as to impounded personal property;
 - (7) A statement that impounded property will be sold, or otherwise disposed of, if not claimed within 90 days after impoundment;
 - (8) A statement that personal property presenting a Health Hazard, posing an Imminent Threat to public health or safety, or is evidence of a crime, or contraband will be removed or destroyed, at any time by the City;
 - (9) A statement that the owner of the personal property shall be responsible for all costs of removal, storage and disposal, unless the owner of the personal property qualifies for a fee waiver by meeting the income poverty threshold, as established by the U.S. Department of Health and Human Services; and
 - (10) A statement that the owner of the personal property may dispute the removal of the personal property or cited violation of this Chapter and a telephone number for the owner of the personal property to request an informal hearing before the property is removed.

The pre-impoundment notice shall be deemed to have been served if a copy of the written notice is served on the person storing the personal property or is posted prominently and conspicuously on or near the stored personal property.

5.23.090. – Pre-impoundment informal hearing.

- (a) The pre-impoundment hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request by the person claiming ownership of the personal property.

- (b) Any law enforcement officer may conduct the informal hearing. Alternatively, the seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the impoundment of the personal property and is not junior in rank to that person or the agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.
- (c) At the time of the hearing, the owner of the personal property shall be provided the opportunity to show why the property has not been stored in violation of this Chapter; that the stored personal property is not a Health Hazard and should not be destroyed; or to show that additional time is necessary for the owner to remove the property.
- (d) The informal hearing may be held at any location, including the location of the personal property at issue.
- (e) The hearing officer, after the hearing, may affirm or deny the impoundment and/or destruction of the personal property. The hearing officer may in his/her discretion determine that additional time be provided for the removal of the personal property so long as such delay does not pose an Immediate Threat to the public health, safety, or welfare.
- (f) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre-impoundment hearing or right to challenge his or her liability for costs incurred pursuant to this Chapter.

5.23.100. – Storage, post-impoundment notice, and disposal.

- (a) Storage. Except for personal property described under subdivision (d) of Section 5.23.070, impounded personal property shall be moved to a secure place of storage.
- (b) Storage Fees and Waiver. The owner of the personal property shall be assessed moving, storage, and other related fees and costs, unless the owner qualifies for a fee waiver. A owner of the personal property qualifies for a waiver if the person's income falls at or below the poverty threshold, as established by the U.S. Department of Health and Human Services.
- (c) Post-Impoundment Notice. Upon removal of stored personal property pursuant to this chapter, written notice shall be provided to the person who stored or claims ownership of the personal property. The written notice shall contain the following:
 - (1) The date and approximate time of personal property was removed;
 - (2) The section of the Yuba City Municipal Code that was being violated;
 - (3) A description of the personal property removed (such description may refer to an attached photograph);

- (4) The location of where the impounded personal property is being kept and when it may be claimed by the rightful owner;
- (5) A statement that the City intends to sell, donate, or otherwise dispose of the impounded property if not claimed within 90 days from the date of the Post-Impoundment Notice; and
- (6) Contact information and instructions on how the owner may reclaim the impounded property.

Service of the written notice shall be by personal service or by certified mail, return receipt requested, to the last known address of the owner of the impounded property if the owner is known. Where the identity or the address of the owner is unknown or cannot be determined through the exercise of reasonable diligence, the notice shall be posted at or near the location where the property was stored or seized.

- (d) **Mandatory Storage Holding Time.** The City, its officers, employees, and agents shall store impounded property in a secure location for a period of not less than ninety (90) days.
- (e) **Disposal of Unclaimed Property.**
 - (1) **General.** If the owner or any other person entitled to the impounded personal property does not claim the property as specified in Section 5.23.120, the City, its officers, employees, and agents may sell, donate, destroy, or otherwise dispose of the impounded property.
- (f) **Records.** The City shall maintain a record of the impounded property, name of any person repossessing the impounded property and date thereof, date and method of any disposal of the impounded personal property, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such record shall be kept as a public record for a period of not less than one (1) year from the date of disposal of the property.

5.23.110. – Proceeds of sale.

All fees and unpaid rent, debts, and charges owing and all expenses of handling, storage, appraisal, advertising, and other sale expenses incurred by the City shall be deducted from the proceeds of any sale of the impounded property. Any amount remaining shall be held in trust for the owner of the property for thirty (30) days after sale, after which time the proceeds shall be paid into the general fund.

5.23.120. – Repossession.

- (a) **General.** The owner or any other person entitled to the impounded personal property may repossess or assert the right, title, and interest to the impounded personal property within ninety (90) days from the date of the post-impoundment notice.

- (b) Method to Reclaim. Upon submitting satisfactory proof of ownership or entitlement and payment of all unpaid storage related costs, the City shall restore the impounded property to the owner or other person entitled to the impounded property, unless the person qualifies for a fee waiver, as described in subdivision (b) of Section 5.23.100. Thereafter, the City shall release the impounded property to the owner or other entitled person.

5.23.130. – City not liable.

The City, its officers, employees, and agents shall not be liable to the owner of impounded personal property because of any disposal of the property made pursuant to this Chapter. The remedies available to the owner of impounded property are limited to those provided in this Chapter. Additionally, the owner of impounded personal property shall bear the responsibility for the risk of any loss or damage to the impounded property.

5.23.140. – Designated areas.

The City Council of the City of Yuba City may, by majority vote, establish one or more specified designated areas in which individuals may store personal property. Such designated areas, if any, may be located in prohibited public places as set forth in 5.23.070, except that such designated areas shall not be located within public parks or waterways.

Personal property stored in a designated area under this section must be stored in a manner that does not create a public nuisance or health or safety hazard. Additionally, such personal property shall be stored in a manner which protects the personal property against damage from the elements.

5.23.150. – Penalty for violation.

Any person violating any provision of this Chapter is guilty of a misdemeanor.

5.23.160. – Non-exclusivity.

Nothing in this Chapter shall limit or preclude the enforcement of other applicable laws to conduct within the scope of this Chapter and the remedies provided herein are cumulative to all other remedies now or hereafter available to abate or otherwise regulate the conduct described herein.

5.23.170. - Severability.

If any section, subsection, sentence, clause, portion, or phrase of this ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have passed this Chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 4. This Ordinance shall take effect and be in full force and effect from and after thirty (30) calendar days after its final passage and adoption. Within fifteen (15) calendar days after its

adoption, the Ordinance, or a summary of the Ordinance, shall be published once in a newspaper of general circulation.

Introduced and read at a regular meeting of the City Council of the City of Yuba City on the ____th day of _____, 2019, and passed and adopted at a regular meeting held on the ____th day of _____, 202019.

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

Shon Harris, Mayor

ATTEST:

Patricia Buckland, City Clerk

APPROVED AS TO FORM
COUNSEL FOR YUBA CITY

SHANNON CHAFFIN, City Attorney
Aleshire & Wynder, LLC