

Gridley City Council – Regular Meeting Agenda

Monday, May 16, 2022; 6:00 pm

Gridley City Hall, 685 Kentucky Street, Gridley, CA 95948

“Our purpose is to continuously enhance our community’s vitality and overall quality of life. We are committed to providing high quality, cost-effective municipal services and forming productive partnerships with our residents and regional organizations. We collectively develop, share, and are guided by a clear vision, values, and meaningful objectives.”

The Public is encouraged to attend and participate in person. Comments from the public on agenda items will be accepted until 4 pm on May 16th, 2022, via email to csantana@gridley.ca.us or via the payment/document drop box at Gridley City Hall and will be conveyed to the Council for consideration.

You may view using the following link, ID, and passcode:

<https://us06web.zoom.us/j/83884846036?pwd=V3pGNGdRNVFVaXRvWm11ZW4ySHpSdz09>

Webinar ID: 838 8484 6036

Passcode: 286691

OR

Call-in using one of the following numbers, and the above ID and passcode:

1-(253) 215-8782

1-(720) 707-2699

To make a public comment during the Community Participation Forum or during the public portion of any agenda item, use the ‘raise hand’ feature and you will be called on when it’s your turn to speak.

CALL TO ORDER - Mayor Johnson

ROLL CALL

PLEDGE OF ALLEGIANCE – Councilmember Sanchez

INVOCATION – None

PROCLAMATION - None

INTRODUCTION OF NEW OR PROMOTED EMPLOYEES - None

COMMUNITY PARTICIPATION FORUM - *Members of the public may address the City Council on matters not listed on the agenda. The City Council may not discuss nor take action on any community participation item brought forward by a member of the community. Comments are requested to be limited to three (3) minutes.*

CONSENT AGENDA

1. City Council minutes dated May 2nd, 2022
2. Gridley Electric Utility Wildfire Mitigation Plan for FY 22-23
3. Resolution No. 2022-R-015: A Resolution to the City Council to amend previously adopted Resolution No. 2021-R-032

ITEMS FOR COUNCIL CONSIDERATION

4. Gridley Electric Utility Security Plan
5. Smoke Free Outdoor Parks Ordinance Proposal (Council Member Sanchez)
6. First Reading of Ordinance 837-2022: Adding Chapter 8.05 to Title 8 of the Gridley Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction
7. Discussion of City Policy/Ordinance Governing Pole and Monument Signs (Mayor Johnson)

CITY STAFF AND COUNCIL COMMITTEE REPORTS - *Brief updates from City staff and brief reports on conferences, seminars, and meetings attended by the Mayor and City Council members, if any.*

CITY ADMINISTRATOR REPORTS - *Brief updates and reports on conferences, seminars, and meetings attended by the City Administrator, if any.*

POTENTIAL FUTURE CITY COUNCIL ITEMS - *(Appearing on the Agenda within 30-90 days):*

CDBG Grants Administrative Services	6/6/2022
Adopt Housing Element Introduction 2022-2030	6/6/2022
Edler Estates	7/19/2022

CLOSED SESSION –

8. Discussion with Legal Counsel – Pursuant to Government Code 54957: Public Employee Evaluation – City Administrator
9. Discussion with Legal Counsel – Pursuant to Government Code 54957.6: Conference with Labor Negotiator, Cliff Wagner, City Administrator, for discussion of progress of collective bargaining discussions with City Employee represented classes

ADJOURNMENT – adjourning to a Regular meeting on June 6th, 2022.

NOTE 1: POSTING OF AGENDA- This agenda was posted on the public bulletin board at City Hall at or before 6:00 p.m., May 13th, 2022. This agenda along with all attachments is available for public viewing online at www.gridley.ca.us and at the Administration Counter in City Hall, 685 Kentucky Street, Gridley, CA.

NOTE 2: REGARDING UNSCHEDULED MATTERS – In accordance with state law, it shall be the policy of this Council that no action shall be taken on any item presented during the public forum or on

unscheduled matters unless the Council, by majority vote, determines that an emergency situation exists, or, unless the Council by a two-thirds vote finds that the need to take action arose subsequent to the posting of this agenda.

Gridley City Council – Regular Meeting Minutes

Monday, May 2, 2022; 6:00 pm

Gridley City Hall, 685 Kentucky Street, Gridley, CA 95948

“Our purpose is to continuously enhance our community’s vitality and overall quality of life. We are committed to providing high quality, cost-effective municipal services and forming productive partnerships with our residents and regional organizations. We collectively develop, share, and are guided by a clear vision, values, and meaningful objectives.”

CALL TO ORDER

Mayor Johnson called the meeting to order at 6:02 pm

ROLL CALL

Councilmembers

Present: Johnson, Sanchez, Farr, Torres
Absent: Calderon
Arriving after roll call: None

Staff present:

Cliff Wagner, City Administrator
Tony Galyean, City Attorney
Rodney Harr, Chief of Police
Danny Howard, Electric Utility Director
Elisa Arteaga, Finance Director
Dave Harden, City Engineer (via zoom)

PLEDGE OF ALLEGIANCE

Vice Mayor Farr led the Pledge of Allegiance.

INVOCATION – None

PROCLAMATION - None

INTRODUCTION OF NEW OR PROMOTED EMPLOYEES - None

COMMUNITY PARTICIPATION FORUM

The forum was opened and seeing no one was present to speak, was closed.

CONSENT AGENDA

1. City Council minutes dated April 18th, 2022

Motion to approve the consent agenda by Councilmember Torres, seconded by Vice Mayor Farr.

ROLL CALL VOTE

Ayes: Johnson, Torres, Farr, Sanchez

Motion Passed, 4-0

ITEMS FOR COUNCIL CONSIDERATION

2. FY 22/23 Budget Study Sessions Calendar

Elisa proposed meeting dates for City Council and Staff to discuss the FY 22/23 Budget. Council agreed on the dates of May 25th, 26th, and 27th 2022 at 6pm.

3. Informational Update - Cal Trans "State Route 99 Roadway Rehabilitation in Gridley" Presentation

Christopher Ladeas and Jarek Kusz of Cal Trans presented their informational PowerPoint presentation of the State Highway 99 Rehab in Gridley scheduled to begin Summer 2024 and completed by Spring 2026.

Pat Coghlan, Gridley resident, briefly spoke in reference to his safety concerns for pedestrians and the need to have another crosswalk added.

Sarbjit Takhar, 1328 Royo Ranchero Dr. Yuba City, submitted a comment via email, and also spoke to explain that he received a letter stating his property at 1464 Hwy 99 would be losing its existing access as a result of this project, and he would be required to get access from the adjacent parcel. Christopher Ladeas suggested that he and Mr. Takhar have a separate meeting, along with the Mayor, to settle this matter. Mr. Takhar agreed.

4. Resolution 2022-R-013: Adopting a Debt Management Policy for the City and its Related Entities

Administrator Wager, along with Bill Fawell via zoom, informed Council that Senate Bill 1029 amended California Government Code 8855 to add certain requirements related to the issuance and administration of debt by local agencies, including requiring the adoption of a debt policy meeting the requirements of California Government Code 8855.

Motion to adopt 2022-R-013 by Councilmember Sanchez, seconded by Councilmember Torres.

ROLL CALL VOTE

Ayes: Johnson, Farr, Torres, Sanchez

Motion passed, 4-0

5. Resolution 2022-R-014: Approving the Issuance of Refunding Bonds for Refinancing the City's Former Redevelopment Agency (Successor Agency), Gridley Redevelopment Project, Tax Allocation Bonds, Series 2008A (Taxable) and Series 2008B (Tax-Exempt), Indenture of Trust, Retaining Financing Team Members, and Providing for Other Matters Properly Relating

Bill Fawell, explained to Council that the approval of Resolution 2022-R-014 would allow Mr. Fawell and his financing team to begin work in refinancing the City of Gridley's current debts, and

also explained that it would still be required that this topic be brought to Council again prior to any final approval.

Pat Coghlan asked Mr. Fawell if this would mean extending the maturity of any debts, which Mr. Fawell answered that it would not extend any existing debts.

Motion to pass Resolution 2022-R-014 by Vice Mayor Farr, seconded by Mayor Johnson.

ROLL CALL VOTE

Ayes: Farr, Johnson, Torres, Sanchez

Motion passed, 4-0

6. Assembly Bill 2878 – Support Letter

Administrator Wagner requested that The City of Gridley submit a letter in support of Assembly Bill 2878, which helps achieve the state’s forest health and wildfire risk reduction goals by increasing the productive use of forest waste through energy generation and wood products manufacturing.

Motion to submit support letter by Councilmember Torres, seconded by Mayor Johnson.

ROLL CALL VOTE:

Ayes: Sanchez, Farr, Johnson, Torres

Motion Passed, 4-0

CITY STAFF AND COUNCIL COMMITTEE REPORTS

Councilmember Torres, states that he and the Chamber of Commerce held the grand opening of Grocery Outlet that went well.

Councilmember Sanchez provided that she attended the NCPA Commission meeting via zoom at Gridley City Hall and that the proposed budget had been accepted in this meeting.

POTENTIAL FUTURE CITY COUNCIL ITEMS - (*Appearing on the Agenda within 30-90 days*):

CDBG Grants Administrative Services	5/16/2022
Approve Gridley's Wildfire Mitigation Plan	5/16/2022
Approve Gridley's Utility Security Plan	5/16/2022
Edler Estates	5/16/2022
Adopt Housing Element 2022-2030	5/16/2022

CLOSED SESSION –

7. Discussion with Legal Counsel – Pursuant to Government Code 54957 to discuss a liability claim presented by Cruz Elena Santillan against the City of Gridley

Council went into closed session at 7:47 pm and came out at 7:56 pm with no reportable action.

ADJOURNMENT

Mayor Johnson adjourned to the next regular meeting on May 16th, 2022.

Cliff Wagner, City Clerk

DRAFT

City Council Agenda Item #2
Staff Report

Date: May 16, 2022
To: Mayor and City Council
From: Danny Howard, Electric Utility Director
Subject: Gridley Electric Utility Wildfire Mitigation Plan for FY 22-23

X	Regular
	Special
	Closed
	Emergency

Recommendation

Staff respectfully requests the City Council to approve the Gridley Electric Utility Wildfire Mitigation Plan for FY 22-23.

Background

Over the last few years, California has experienced several catastrophic wildfires that has resulted in the State Legislature passing SB 901 in September 2018. The law requires California utilities to annually prepare a Wildfire Mitigation Plan (WMP). The City Council adopted our initial WMP in December 2019 for the FY 19-20. SB 901 also requires that a qualified independent evaluator, who shall issue a report to the governing body of each utility, evaluate the WMP. Power Engineers has completed their evaluation of Gridley's WMP and the necessary recommendations have been updated to the WMP.

Gridley Electric's WMP (Attached) describes the range of actions that our Electric Utility is taking or considering to minimize the sources of ignition and improve the resiliency of the City's electric grid. The WMP complies with the requirements of the Public Utilities Code section 8387 for publicly owned electric utilities to prepare a wildfire mitigation plan. The plan will be iterative, promote continuous improvement year after year, and implement industry best practices in a prudent and reasonable manner.

The Wildfire Safety Advisory Board (WSAB) has joined the California Natural Resources Agency on July 1, 2021, as the Office of Energy Infrastructure Safety (Energy Safety). The WSAB has an electronic, online e-filing system to receive and distribute document filings and provide easy access to information. The CPUC request we update our WMP every year and be submitted to the e-filing system before July 1 deadline.

Fiscal Impact

None

Compliance with the City Council Strategic Plan

This recommendation is consistent with our ongoing efforts to provide safe and reliable electrical services.

Attachments

Wildfire Mitigation Plan – Powers Engineers
Wildfire Mitigation Plan Review

April 2022

CITY OF GRIDLEY

Wildfire Mitigation Plan Review

Gridley Wildfire Mitigation Plan

PROJECT NUMBER:

177399

PROJECT CONTACT:

Brent Miyazaki

EMAIL:

brent.miyazaki@powereng.com

PHONE:

704-507-2722



Wildfire Mitigation Plan Review

PREPARED FOR: CITY OF GRIDLEY
PREPARED BY: POWER ENGINEERS, INC.
AUSTIN, TEXAS

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ACRONYMS AND ABBREVIATIONS

City	City of Gridley, California
CPUC	California Public Utilities Commission
POWER	POWER Engineers, Inc.
WMP	Wildfire Mitigation Plan

1.0 BACKGROUND

The City of Gridley, California (City) contracted with POWER Engineers, Inc. (POWER) to review the City's Wildfire Mitigation Plan (WMP), dated July 2021, for compliance with California Public Utilities Code (CPUC), Division 4.1 Provisions Applicable to Privately Owned and Publicly Owned Public Utilities, Chapter 6 Wildfire Mitigation, Section 8387 (PUC Code § 8387 or Code) and make recommendations for revisions that might be necessary. The Code requires that each local publicly owned electric utility and/or electrical cooperative prepare and submit a WMP to the California Wildfire Safety Advisory Board and lists specific topics that the WMP shall consider.

2.0 GENERAL FINDINGS

The analysis conducted for the City's WMP compared the requirements of each section of the Code with the WMP and found a few areas where more information should be provided to address existing regulatory requirements. The analysis also identified several sections of the WMP that could be strengthened.

The analysis established the following high-level findings:

- PUC Code § 8387(b)(2) contains 14 lettered topics that each WMP shall consider, some of which contain subheadings.
- The lettered topics in PUC Code § 8387 were separated into 17 topics for this review.
- The City's WMP addresses 16 of the 17 topics identified for this review.
- Overall, the City's WMP is in line with plans submitted by other utilities.
- Discussions in five sections of the WMP should be revised to ensure compliance with the Code.
- Discussion for several topics provides limited information and could be expanded to better address the intent of the Code.
- Recommendations for other sections are provided for the City's consideration.

3.0 RECOMMENDATIONS FOR SECTIONS THAT SHOULD BE REVISED

It is recommended that each of the following WMP sections are revised to ensure complete compliance with the Code requirements. For each section, the topic from the Code is shown along with the relevant section number from the City's WMP. The comments explain the weakness of the WMP section and recommendations for revisions. The recommended revisions should be relatively easy to implement.

Note that the Code text here may vary slightly from the actual text in the Code, and that the term *utility* has been substituted for *local publicly owned electric utility and/or electrical cooperatives*. The reader should refer to the PUC Code § 8387 as published by the California Public Utilities Commission for the exact text.

Code (2)(C) *A description of the preventative strategies and programs to be adopted by the utility to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.*

City WMP § V – Comment: Climate change risks are not described. Climate change is listed in WMP § IV as a wildfire risk but there is no discussion of how the City’s preventative strategies and programs consider it. The WMP should include a brief discussion of dynamic climate change risks and any preventative strategies applicable to the City.

Code (2)(F) *Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.*

City WMP § V.H – Comment: Protocols related to mitigating the public safety impacts of deenergization are not described. The WMP should include a brief description of any mitigation that can be implemented to lessen the impacts of deenergization on critical first responders and health and communication infrastructure.

Code (2)(G) *Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall direct notification to all public safety offices, critical first responders, health care facilities, and operators of telecommunications infrastructure with premises within the footprint of potential deenergization for a given event.*

City WMP § V.H.2 – Comment: This section does not discuss direct notification procedures for critical facilities. The WMP should include a brief discussion about how the City will notify such critical facilities as first responders and hospitals when a deenergization event is planned or imminent. Sections III.D and III.E of the WMP say the City will coordinate with the Public Works Department regarding water delivery and with communication infrastructure providers, but these sections should be moved to Section V.H.2 and enhanced to include the methods of communication.

Code (2)(J) *A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the service territory. The list shall include, but not be limited to, both of the following:*

- i. Risks and drivers associated with design, construction, operation, and maintenance of the utility’s equipment and facilities.*
- ii. Particular risks and risk drivers associated with topographic and climatological risk factors through the different parts of the utility’s service territory.*

City WMP § IV – Comment: This section provides a lengthy list for both categories but does not describe or prioritize the risks. This section should be expanded to prioritize the risks and include a brief description of each. The responses to this Code in some other WMPs also include mitigation measures the utility is implementing or will implement for each risk. Although not a requirement, it may be helpful to add mitigation measures where applicable.

Code (2)(L) *A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk.*

City WMP § IV – Comment: This section presents a list of wildfire risks but does not provide a methodology for identification of these risks. This section should include a description of how City staff determined which risks apply to its territory. Some methods other utilities have used to assess the risk of wildfire within their territories include a review and analysis of historic outages and historic fires.

4.0 ADDITIONAL RECOMMENDATIONS FOR SPECIFIC SECTIONS

The following comments and recommendations are offered as ways to strengthen the WMP.

City WMP § IV.A – Comment: This section lists wildfire risks and drivers. Suggestions for additional risk drivers include vegetation health (e.g., dry and stressed vegetation, susceptibility to bark beetle infestations, and tree mortality due to extended drought conditions) and wood pole deterioration or damage (e.g., woodpecker damage).

City WMP § IV.C – Comment: This section is in response to Code (2)(K), which refers to whether any areas within the City’s territory have become a higher threat level since the fire-threat maps were issued. The City should consider evaluating changes to its territory with the potential to change the threat level over time, such as a bark beetle infestation, which results in clusters of high tree mortality.

City WMP § V.A – Comment: This section provides information on the City’s participation in the development of the CPUC’s fire-threat map. While not required, it would be helpful to describe the City’s service territory, including how much area is within a high fire threat zone. The inclusion of a map in the WMP would also be beneficial to orient the reader.

City WMP § V.C – Comment: This section discusses wildfire preventative strategies related to design and construction standards. The City states that it meets or exceeds all relevant industry standards and regulations. It would be beneficial to include these standards as an appendix to the WMP or reference relevant City procedural documents. Additionally, the City may consider adding a description of its verification process, such as post-construction inspections and documentation/record keeping, to ensure the design and construction meets the standards. This process may also be included as an appendix to the WMP.

City WMP § V.D – Comment: This section describes the City’s vegetation management practices and states that evaluations of trees occur annually, and more frequently in the case of “hazard trees.” It would be helpful to describe the City’s existing process and timeframe for maintenance activities, as well as describe the prioritization of maintenance activities and the documentation process. Additionally, this section discusses tree management but does not mention ground vegetation.

City WMP § V.E – Comment: This section outlines plans for inspection of the City’s electrical infrastructure. The City may consider providing more detail, including the type and frequency of inspections, the City’s process for generating and completing work orders, and the documentation and audit processes used to ensure the work is completed satisfactorily and within the scheduled timeframe.

City WMP § V.F – Comment: This section refers to the City’s wildfire-related workforce training. It would be helpful to describe the criteria for the four daily operations conditions. A statement may be added regarding who receives the safety training program and in what context. Additionally, the City may consider adding training for specific tasks with the potential to ignite wildfires, including hot work or other ignition-source work such as mowing with bladed equipment. The City may include its procedures for such tasks by reference or as an appendix to the WMP.

City WMP § V.G – Comment: This section describes the City’s reclosing policy during red flag warnings. A statement should be added to clarify whether the reclosing policy is to place line reclosers and relays in the non-reclosing setting in areas that serve high fire threat areas or if the policy applies to the City’s entire system regardless of fire-threat zone.

City WMP § V.H.2 – Comment: This section lists the customer notification methods for advance notice of planned deenergization events. In the event of a wildfire, power shutoffs may be required without advance notice. It is suggested that methods for real-time notice are included. Real-time notice methods the City may consider include automated alerts and phone calls, and social media posts.

City WMP § VI – Comment: This section refers to community outreach and public awareness. It would be beneficial to briefly describe the City’s existing community outreach efforts related to wildfire planning. This section may also be moved to become a subsection under wildfire preventative strategies.

City WMP § VII – Comment: This section provides a statement regarding restoration of service following a deenergization event. The statement is sufficient to comply with the Code. The City may consider including the City’s process for restoring of service, such as communications and equipment inspections.

City WMP § VIII.A – Comment: This section describes two metrics the City will use to measure the performance of the WMP. It may be useful to add additional measurable metrics such as tracking of equipment inspection records and maintenance, tracking of vegetation inspection records and maintenance, number of overhead equipment failures, and outage response time. If the City has data pertaining to previous fires or wires down, it should be included as an appendix. If there is no previous data, a statement should be added that there is no data for a specific reporting period.

City WMP § VIII.B – Comment: This section states that data collection will become more robust in time. It would be beneficial to include a statement that because this is the first version of the plan there are no previous metrics to evaluate. Additionally, a statement should be added explaining how the data collection will be tracked (e.g., database, Excel spreadsheet).

City WMP § VIII.E – Comment: This section should describe how the City monitors the effectiveness of electrical line and equipment inspections. The City’s WMP states this section will be developed at a later time. This section should expand upon City WMP § V.E, which should discuss the City’s plans for the inspection of electrical infrastructure. The City should consider describing the auditing process for work orders to ensure any maintenance identified during the inspections is completed in a timely manner.

5.0 GENERAL RECOMMENDATIONS

The City of Gridley is within a Local Responsibility Area. Maps are very useful to illustrate how the City's service territory relates to the CPUC's fire threat zone and how events in the zone but outside the City's territory could impact the City's service.

The City may consider reorganizing the WMP to utilize the Code requirements as headings. This would help the reader quickly locate each section within the WMP.

Documentation and record keeping is necessary for several processes, including post-construction inspections, inspection of vegetation and electrical infrastructure, maintenance work orders, and auditing of completed work orders. The City may consider adding descriptions of its record keeping and documentation processes. This can be either incorporated by reference or included as appendices to the WMP.

The WMP should be used in part as a tool to help the City reduce financial liability should a fire occur. The City may consider whether the radial clearance of bare line accounts for wind-induced conductor blowout. The City may also consider whether equipment inspections evaluate pole conditions and deterioration, including biological hazards, such as damage from insects and woodpeckers.

CITY OF GRIDLEY WILDFIRE MITIGATION PLAN

JULY 1, 2022

I. OVERVIEW

A. POLICY STATEMENT

The Gridley Electric Department's overarching goal is to provide safe, reliable, and economic electric service to our residents and business community. In order to meet this goal, Gridley constructs, maintains, and operates its electrical lines and equipment in a manner that minimizes the risk of catastrophic wildfire posed by its electrical lines and equipment.

B. PURPOSE OF THE WILDFIRE MITIGATION PLAN

This Wildfire Mitigation Plan describes the range of actions that Gridley is taking to mitigate the threat of power-line ignited wildfires, including its various programs, policies, and procedures. This plan is subject to direct supervision by the City Administrator and is implemented by the Electrical Superintendent. This plan complies with the requirements of Public Utilities Code section 8387 for publicly owned electric utilities to prepare a wildfire mitigation plan by January 1, 2020, and annually thereafter. Gridley Electrical is a department within the City of Gridley.

Organization of the Wildfire Mitigation Plan

This Wildfire Mitigation Plan includes the following elements:

- Objectives of the plan;
- Roles and responsibilities for carrying out the plan;
- Identification of key wildfire risks and risk drivers;
- Description of wildfire prevention, mitigation, and response strategies and programs;
- Community outreach and education;
- Metrics for evaluating the performance of the plan and identifying areas for improvement;
- Review and validation of the plan; and
- Timelines.

II. OBJECTIVES OF THE WILDFIRE MITIGATION PLAN

A. MINIMIZING SOURCES OF IGNITION

The primary goal of this Wildfire Mitigation Plan is to minimize the probability that Gridley's transmission and distribution system may be the origin or contributing source for the ignition of a fire. Gridley has evaluated the prudent and cost-effective improvements to its physical assets, operations, and training that can help to meet this objective. Gridley has implemented those changes consistent with this evaluation.

B. RESILIENCY OF THE ELECTRIC GRID

The secondary goal of this Wildfire Mitigation Plan is to improve the resiliency of the electric grid. As part of the development of this plan, Gridley assesses new industry practices and technologies that will reduce the likelihood of an interruption (frequency) in service and improve the restoration (duration) of service.

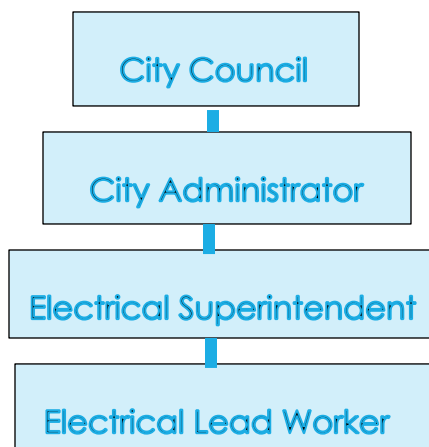
C. MINIMIZING UNNECESSARY OR INEFFECTIVE ACTIONS

The final goal for this Wildfire Mitigation Plan is to measure the effectiveness of specific wildfire mitigation strategies. Where a particular action, program component, or protocol is determined to be

unnecessary or ineffective, Gridley will assess whether a modification or replacement is merited. This plan will also help determine if more cost-effective measures would produce the same or improved results.

III. ROLES AND RESPONSIBILITIES

A. UTILITY GOVERNANCE STRUCTURE



City Council - to debate, consider and adopt any policies, regulations or ordinances recommended by the City Administrator and Electrical Department Superintendent as to the safe operations of the City of Gridley's Electrical System in accordance with the Wildfire Mitigation plan.

City Administrator - to work with the Electrical Department Superintendent in the implementation of the Wildfire Mitigation Plan and to be a liaison to the City of Gridley Council and Gridley Electrical Department during wildfire events. To be the liaison between the City of Gridley and any outside Governmental agencies in procurement of any needed resources to aid in a Wildfire Event. To be the public relations contact for the City of Gridley during a Wildfire Event.

Electrical Department Superintendent - to oversee the operation of the City of Gridley's Electrical Department. To implement the City of Gridley's Wildfire Mitigation Plan as adopted by the City of Gridley Council. To be the liaison between the Gridley Electrical Department and the City of Gridley Administrator during wildfire events. To be the liaison between City of Gridley Departments in providing aid during Wildfire Events. To provide training to Electrical Department staff in the prevention of Wildfire events caused by Electrical Distribution Systems.

Electrical Lead Worker - to oversee the day to day operations of the City of Gridley's Electrical Distribution System. To implement the City of Gridley's Wildfire Mitigation Plan as adopted by the City of Gridley's Council. To be the liaison between the Gridley Electrical Crew and the Gridley Electrical Department Superintendent during Wildfire Events. To report and correct any adverse conditions on the Electrical Distribution that may cause a Wildfire event.

B. WILDFIRE PREVENTION

City of Gridley's staff roles and responsibilities for (1) electric facility design, maintenance, and inspection; and (2) vegetation management.

- Operate system in a manner that will minimize potential wildfire risks.
- Take all reasonable and practicable actions to minimize the risk of a catastrophic wildfire caused by Gridley electric facilities.
- Coordinate with federal, state, and local fire management personnel as necessary or appropriate to implement Gridley's Wildfire Mitigation Plan.
- Immediately report fires, pursuant to existing Gridley Electrical practices and the requirements of this Wildfire Mitigation Plan.
- Take corrective action when the staff witnesses or is notified that fire protection measures have not been properly installed or maintained.
- Comply with relevant federal, state, and industry standard requirements, including the industry standards established by the California Public Utilities Commission.
- Collect and maintain wildfire data necessary for the implementation of this Wildfire Mitigation Plan.
- Provide regular training programs for all employees having obligations for implementation of this Wildfire Mitigation Plan.
- Perform annual inspections of distribution system for tree clearances.
- Perform annual tree trimming to maintain a 12-foot clearance around primary lines.

C. WILDFIRE RESPONSE AND RECOVERY

During a wildfire event the Gridley Electrical Superintendent, and or, the Lead line worker will keep in direct contact and provide regular updates as to the event status with the following Departments and organizations:

- City of Gridley Administrator
- Gridley Police Department
- CalFire
- Gridley Public Works Department

Gridley Electrical utility staff have the following obligations regarding fire prevention, response and investigation:

- Take all reasonable and practicable actions to prevent and suppress fires resulting from Gridley's electric facilities.
- Follow Gridley Electrical Department's protocols during Red Flag Warnings.

D. COORDINATION WITH WATER UTILITIES/DEPARTMENT

Gridley Electrical Department will coordinate with the City of Gridley Public Works Department to ensure the reliable delivery of water during any Red Flag or wildfire event, and as needed enlist the help of Public Works personnel to combat any wildfires caused by City of Gridley Electrical Equipment or to aid in any repairs of Gridley's electrical equipment that may cause a wildfire condition.

E. COORDINATION WITH COMMUNICATION INFRASTRUCTURE PROVIDERS

During a wild fire event that involves equipment of an outside agency's Communication equipment, the City of Gridley will contact the involved agencies as soon as it is feasibly possible.

F. STANDARDIZED EMERGENCY MANAGEMENT SYSTEM

As a local governmental agency, Gridley has planning, communication, and coordination obligations pursuant to the California Office of Emergency Services' Standardized Emergency Management System ("SEMS") Regulations, adopted in accordance with Government Code section 8607. The SEMS Regulations specify roles, responsibilities, and structures of communications at five different levels: field response, local government, operational area, regional, and state. Pursuant to this structure, Gridley annually coordinates and communicates with the relevant safety agencies as well as other relevant local and state agencies.

Under the SEMS structure, a significant amount of preparation is done through advanced planning at the county level, including the coordination of efforts of public, private, and nonprofit organizations. Butte County serves as the Operational Area and is guided by the Butte County Disaster Council that is made up of representatives of Butte. The Operational Area includes local and regional organizations that bring relevant expertise to the wildfire prevention and recovery planning process. These participants include school districts, utilities, Fire Districts, non-profits, Hospitals, special districts, communications providers, and other similar organizations.

Pursuant to the SEMS structure, the City of Gridley participates in annual training exercises. Gridley is also a member of the California Utility Emergency Association, which plays a key role in ensuring communications between utilities during emergencies. Gridley also participates in the Western Energy Institute's Western Region Mutual Assistance Agreement, which is a mutual assistance agreement covering utilities across a number of western states.

IV. WILDFIRE RISKS AND DRIVERS ASSOCIATED WITH DESIGN, CONSTRUCTION, OPERATION AND MAINTENANCE

A. PARTICULAR RISKS AND RISK DRIVERS ASSOCIATED WITH TOPOGRAPHIC AND CLIMATOLOGICAL RISK FACTORS

Below is a list of wildfire risk drivers that is prioritized and Gridley's Mitigation measures to prevent each risk within Gridley's service territory and the surrounding areas. The primary risk drivers for wildfire are the following:

1. Extended drought – Annual Tree Trimming Program mitigates fires due to overgrown/rotting trees
2. High Winds – Annual GO 95 Inspections and maintenance mitigate fires caused from electrical lines
3. Weather – Annual GO 95 Inspections and maintenance mitigate weather related outages/fires
4. Bark Beetles – Annual Tree Trimming Program allows us to visualize any tree damages related to bark beetle and can be removed before causing any damage
5. Vegetation Health – Annual Tree Trimming Program allows to remove any overgrown or rotten vegetation before causing any damage
6. Changing Weather Patterns (Climate Change) – Annual GO95/128 inspections prevents outages/fires due to hotter, dryer conditions.
7. Fire History – Gives us the information that is needed where extensive measures need to be taken to prevent any reoccurring fires.

8. Terrain – Annual Inspections ensures that we have all access needed in case of any fire threats

B. ENTERPRISEWIDE SAFETY RISKS

Within Gridley's Distribution system the primary risk drivers for wildfire are the following:

- Electrical system equipment failure
- Falling trees
- Animal contacting energized equipment
- Human error

C. CHANGES TO CPUC FIRE THREAT MAP

Attached is a copy of the CPUC Fire Threat Map that shows all Tier 1, Tier 2 and Tier 3 fire threat areas in California. The City of Gridley is outside of all three tiers for any high-level threat wildfire areas. Also attached is the website for the CPUC Fire Threat Map website. [CPUC FireMap \(sig-gis.com\)](https://www.cpuc.ca.gov/sig-gis.com)



V. WILDFIRE PREVENTATIVE STRATEGIES

A. HIGH FIRE THREAT DISTRICT

With Gridley not being directly in a High Fire Threat District, we still take the necessary protocols to prevent any possible fires related to our electrical system. Gridley has worked with local fire & government officials to identify the areas of Gridley's service territory that are at an elevated risk of power line ignited fires. Gridley has incorporated the High Fire Threat District map into its construction, inspection, maintenance, repair, and clearance practices, where applicable.

B. WEATHER MONITORING

Gridley monitors current and forecasted weather data from a variety of sources including:

- United States National Weather Service
- CalFire
- Weather Channel
- Radio news
- Local news outlets

Gridley assigns one of four operating conditions based on the relevant weather data and knowledge of local conditions:

- (1) **Normal:** During normal conditions, no changes are made to operations or work policy.
- (2) **Elevated:** During elevated fire-risk conditions, Electrical crews are asked to report any areas of concern on or around Gridley's electrical system for potential Wildfire conditions, and to address these concerns during the pre-job tail board discussion
- (3) **Extreme:** During extreme fire-risk conditions, and when working in an area at risk to wildfire conditions crews are to prioritize projects, should it be necessary to proceed with the project, crews are asked to report any areas of concern on or around Gridley's electrical system for potential Wildfire conditions, and to address these concerns during the pre-job tail board discussion and if possible to de-energize the lines during the project. Ensure the job site has adequate fire suppression equipment.
- (4) **Red Flag:** If the National Weather Service declares a Red Flag Warning for any portion of Gridley service territory, any work performed in a wildfire prone area is postponed unless it is deemed an emergency priority. Should it be deemed an emergency condition, crews are asked to report any areas of concern on or around Gridley's electrical system for potential Wildfire conditions, and to address these concerns during the pre-job tail board discussion and if possible, to de-energize the lines during the project. Ensure the job site has adequate fire suppression equipment. Extra personnel and equipment will be enlisted to monitor the project from ground for potential fire, and to suppress any fire caused by the project. If deemed necessary, CalFire will be contacted to stand-by during the project.

C. DESIGN AND CONSTRUCTION STANDARDS

Gridley's electric facilities are designed and constructed to meet or exceed the relevant federal, state, or industry standard. Gridley treats CPUC General Order (GO) 95 as a key industry standard for design and

construction standards for overhead electrical facilities. Gridley meets or exceeds all standards in GO 95. Additionally, Gridley monitors and follows as appropriate the National Electric Safety Code.

D. VEGETATION MANAGEMENT

Gridley meets or exceeds the minimum industry standard vegetation management practices. For transmission-level facilities, Gridley complies with NERC FAC-003-4, where applicable. For both transmission and distribution level facilities, Gridley meets: (1) Public Resources Code section 4292; (2) Public Resources Code section 4293; (3) GO 95 Rule 35; and (4) the GO 95 Appendix E Guidelines to Rule 35. These standards require significantly increased clearances in the High Fire Threat District. The recommended time-of-trim guidelines do not establish a mandatory standard, but instead provide useful guidance to utilities. Gridley will use specific knowledge of growing conditions and tree species to determine the appropriate time of trim clearance and ground vegetation in each circumstance.

GO 95, Rule 35, Table 1

Case	Type of Clearance	Trolley Contact, Feeder and Span Wires, 0-5kv	Supply Conductors and Supply Cables, 750 - 22,500 Volts	Supply Conductors and Supply Cables, 22.5 - 300 kV	Supply Conductors and Supply Cables, 300 - 550 kV (mm)
13	Radial clearance of bare line conductors from tree branches or foliage	18 inches	18 inches	¼ Pin Spacing	½ Pin Spacing
14	Radial clearance of bare line conductors from vegetation in the Fire-Threat District	18 inches	48 inches	48 inches	120 inches

Appendix E Guidelines to Rule 35

The radial clearances shown below are recommended minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts where practicable. Reasonable vegetation management practices may make it advantageous for the purposes of public safety or service reliability to obtain greater clearances than those listed below to ensure compliance until the next scheduled maintenance. Each utility may determine and apply additional appropriate clearances beyond clearances listed below, which take into consideration various factors, including: line operating voltage, length of span, line sag, planned maintenance cycles, location of vegetation within the span, species type, experience with particular species, vegetation growth rate and characteristics, vegetation management standards and best practices, local climate, elevation, fire risk, and vegetation trimming requirements that are applicable to State Responsibility Area lands pursuant to Public Resource Code Sections 4102 and 4293.

Voltage of Lines

Case 13

Case 14

Radial clearances for any conductor of a line operating at 2,400 or more volts, but less than 72,000 volts	4 feet	12 feet
Radial clearances for any conductor of a line operating at 72,000 or more volts, but less than 110,000 volts	6 feet	20 feet
Radial clearances for any conductor of a line operating at 110,000 or more volts, but less than 300,000 volts	10 feet	30 feet
Radial clearances for any conductor of a line operating at 300,000 or more volts	15 feet	30 feet

Within the High Fire Threat District, Gridley performs on an annual basis an evaluation of every tree that has the potential to strike overhead facilities if it were to fall. Gridley performs more frequent and detailed inspections of any such trees, and in cases where “hazard trees” (dead, dying, diseased or leaning) could strike the facilities, will work with the land owner to remove the tree or portion of the tree that poses a risk.

E. INSPECTIONS

Gridley meets or exceeds the minimum inspection requirements provided in CPUC GO 165 and CPUC GO 95, Rule 18. Pursuant to these rules, Gridley inspects electric facilities in the High Fire Threat District more frequently than the other areas of its service territory. Additionally, Gridley staff uses their knowledge of the specific environmental and geographical conditions to determine when areas outside of the High Fire Threat District require more frequent inspections.

If Gridley staff discovers a facility in need of repair that is owned by an entity other than Gridley, Gridley will issue a notice to repair to the facility owner and work to ensure that necessary repairs are completed promptly.

Gridley works to ensure that all inspections to be performed within the High Fire Threat District are completed before the beginning of the historic fire season, [typically September 1]. Gridley monitors drought conditions and other relevant factors throughout the year to determine if inspections should be completed on a shorter timeframe. Below is a list of our inspections and frequency.

- Go 165 OH Visual Inspections – Yearly
- Go 95 OH Detailed Inspections – 5 Years
- Go 128 UG Inspections – 3 Years
- Intrusive Pole Test – 15 Years
- Tree Trimming - Yearly

F. WORKFORCE TRAINING

Gridley has implemented work rules and complementary training programs for its workforce to help reduce the likelihood of the ignition of wildfires.

Gridley has implemented into its daily operations 4 conditions based on current weather conditions.

- Normal
- Elevated

- Extreme
- Red Flag

Gridley has added a Wildfire Mitigation Plan and fire safety training to its safety training program. Gridley Electric Employees receive training from local CalFire stations in proper fire extinguisher use for certain situations.

G. RECLOSING POLICY

During Red Flag Warnings:

Line Reclosers- will be put in a non-reclosing setting for areas that serve as a high fire threat. Should a Line Recloser open during this period, the Line reclosing device shall not be closed until the distribution line it serves has been inspected for the cause of the equipment's operation. When the equipment and distribution line is re-energized, the distribution line will be inspected for safe operation.

Substation Circuit Breaker- relays will be put in a non-reclosing setting. Should a relay operate during this period, the relay device will not be closed until the distribution line being served by the affected relay is inspected for the cause of the operation. When the substation breaker is closed the distribution line being served by the breaker will be inspected for safe operation.

H. DEENERGIZATION

Gridley has the authority to preemptively shut off power due to fire-threat conditions; however, this option will only be used in extraordinary circumstances. Gridley's mitigation efforts include an annual tree trimming program, maintenance inspections program, pole replacement program and installation of generators to lessen the impacts of de-energization on critical first responders and health and communication infrastructure. Gridley will make a case-by-case decision to shut off power based on the following considerations:

- Red Flag Warnings issued by the National Weather Service for fire weather zones that contain Gridley circuits
- Gridley staff assessments of local conditions, including wind speed (sustained and gust), humidity and temperature, fuel moisture, fuel loading and data from weather stations
- Real-time information from staff located in areas identified as at risk of being subject to extreme weather conditions
- Input from Gridley fire experts and vegetation experts
- Input from local and state fire authorities regarding the potential consequences of wildfires in select locations
- Alternative ways to reroute power to affected areas
- Awareness of mandatory or voluntary evacuation orders in place
- Expected impact of de-energizing circuits on essential services
- Other operational considerations to minimize potential wildfire ignitions, including the blocking of reclosers on the identified circuit(s)
- On-going fire activity throughout Gridley's territory and California
- Ability to notify customers
- Notifications to local governments and public officials
- Potential impacts to communities and customers

1. IMPACTS TO PUBLIC SAFETY

The following conditions may occur during a fire threat power shut-down:

- Residential areas will lose power
- Schools will lose power
- Hospital will be on back-up generation power
- Stores will lose power
- Gas stations will lose power
- Traffic signals will be on battery back-up power
- Street lights will not work
- Water supply will be on back-up generation power
- Sewer will be on back-up generation power
- City Hall and Police departments will be on back-up generator power

2. CUSTOMER NOTIFICATION PROTOCOLS

Gridley will make every attempt to give advance notice to its customers of any planned wildfire prevention power shut downs. Should a wildfire prevention power shut down be planned, Gridley will notify all public safety offices, critical first responders, health care facilities, operators of telecommunications infrastructure and its customers in the following ways:

- Signage at City Hall
- Phone calls
- Social media post
- Automated phone calls and text
- Local news paper
- Monthly Bill mailings
- Hwy 99 messaging sign

All critical facilities such as Orchard Hospital, Police Dept., Fire Dept., City Hall, and all city wells have back- up generators in case of any sudden power loss or possible de-energization due to a fire threat. Gridley Electrical Department will coordinate with the City of Gridley Public Works Department with direct contact to PW Director or Supervisor to ensure the reliable delivery of water during any Red Flag or wildfire event and as needed enlist the help of Public Works personnel to combat any wildfires caused by City of Gridley Electrical Equipment or to aid in any repairs of Gridley's electrical equipment that may cause a wildfire condition.

VI. COMMUNITY OUTREACH AND PUBLIC AWARENESS

The City will annually evaluate its community outreach and public awareness communications efforts.

VII. RESTORATION OF SERVICE

Gridley will make every attempt to restore power to residents as soon as possible. Once all equipment inspections that is needed, priority power restoration will be given to critical circuits such as Hospital, CalFire, Police facilities, Senior Facilities and Schools.

VIII. EVALUATING OF THE PLAN

A. METRICS AND ASSUMPTIONS FOR MEASURING PLAN PERFORMANCE

Gridley will track two metrics to measure the performance of this Wildfire Mitigation Plan: (1) number of fire ignitions; and (2) wires down within the service territory.

METRIC 1: FIRE IGNITIONS

For purposes of this metric, a fire ignition is defined as follows:

- Gridley facility was associated with the fire;
- The fire was self-propagating and of a material other than electrical and/or communication facilities;
- The resulting fire traveled greater than one linear meter from the ignition point; and
- Gridley has knowledge that the fire occurred.

In future Wildfire Mitigation Plans, Gridley will provide the number of fires that occurred that were less than 10 acres in size. Any fires greater than 10 acres will be individually described.

METRIC 2: WIRES DOWN

The second metric is the number of distribution and transmission wires downed within Gridley's service territory. For purposes of this metric, a wire down event includes any instance where an electric transmission or primary distribution conductor falls to the ground or on to a foreign object. Gridley will divide the wires down metric between wires down inside and outside of the High Fire Threat District.

Gridley will not normalize this metric by excluding unusual events, such as severe storms. Instead, Gridley will supplement this metric with a qualitative description of any such unusual events.

B. IMPACT OF METRICS ON PLAN

In the initial years, Gridley anticipates that there will be relatively limited data gathered through these metrics. However, as the data collection history becomes more robust, Gridley will be able to identify areas of its operations and service territory that are disproportionately impacted. Gridley will then evaluate potential improvements to the plan.

C. MONITORING AND AUDITING THE PLAN

This Wildfire Mitigation Plan will be presented to Gridley City Council. Gridley will present this plan to the Gridley Council on an annual basis.

D. IDENTIFYING AND CORRECTING DEFICIENCIES IN THE PLAN E. MONITORING THE EFFECTIVENESS OF INSPECTIONS

The Cities Electrical inspections will be done in a timely manner, with repairs being prioritized from a high threat level to a lesser threat level to prevent any fires or possible damages.

IX. FINDEPENDENT AUDITOR

Public Utilities Code section 8387(c) requires the City of Gridley to contract with a qualified independent evaluator with experience in assessing the safe operation of electrical infrastructure to review and assess the comprehensiveness of this Wildfire Mitigation Plan. The independent evaluator must issue a report that is posted to the City's website. This report must also be presented to the City Council at a public meeting.

City Council Agenda Item #3
Staff Report

Date: May 16, 2022

To: Mayor and City Council

From: Cliff Wagner, City Administrator

X	Regular
	Special
	Closed
	Emergency

Subject: Resolution No. 2022-R-015: A Resolution to the City Council to amend previously adopted Resolution No. 2021-R-032 (A Resolution of the City Council of the City of Gridley Approving the Application for Rural Recreation and Tourism Program Grant Funds) as requested by California Parks and Recreation, to include the project names Gridley Sports Complex, and Manuel Vierra Park Revitalizations

Recommendation

City staff respectfully recommends the City Council adopt Resolution No. 2022-R-015: A Resolution to the City Council to amend previously adopted Resolution No. 2021-R-032 (A Resolution of the City Council of the City of Gridley Approving the Application for Rural Recreation and Tourism Program Grant Funds) as requested by California Parks and Recreation, to include the project names Gridley Sports Complex, and Manuel Vierra Park Revitalizations

Background

The Rural Recreation and Tourism (RRT) Grant Program is intended to create new recreation features to support economic growth, tourism, and health related goals that improve overall community health and attract out of town visitors and increase its tourism.

The city has the opportunity through the development of the Industrial Park Sports Complex and the development of new recreational features at Manuel Vierra Park to meet the goals of the RRT program. These two projects provide an opportunity for the city to be very competitive for this grant opportunity.

In the early 2000's, the city created a Master Plan for the development of the Industrial Park under the guise of the redevelopment agency program. The plan included a vibrant community sports complex along with defining the locations of buildings, parking, pedestrian walkways, and site detention.

Phase 1 of the sports complex would initially provide greatly needed soccer fields and supporting facilities. This phase would, 1) support economic and health related policies and goals outlined in the General Plan, 2) expand recreation opportunities that will enhance community and regional programs, and, 3) increase visitors and tourists to the city with interests in outdoor soccer otherwise not provided in the area.

The Master Plan for the Revitalization of Manuel Vierra Park (MVP) was developed in Fiscal Year 2021-2022 as part of the grant application for the Prop 68 Statewide Park Program (SPP) Round 4 application. The Notice of Awards has not been yet released; however, components of the Manuel Vierra Park plan are also in line with the goals of the RRT grant eligibility as well.

Grant information:

- Each project application can be funded with a minimum of \$200,000 and a maximum of \$3,000,000.00. The City can submit more than one application.
- Pre-Award Planning Costs are eligible for reimbursement.
- The grant program must be completed by or before June 2025.

Fiscal Impact

The costs for the grant writing process will utilize currently allocated funds under the 2021-2022 Capital Improvement Program.

Compliance with City Council Strategic Plan or Budget Goals

The City Council and City staff are committed to providing effective leadership while providing quality cost effective local government services.

Attachments

Resolution No. 2022-R-015

A RESOLUTION TO THE CITY COUNCIL TO AMEND PREVIOUSLY ADOPTED RESOLUTION 2022-R-032: (A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GRIDLEY APPROVING THE APPLICATION FOR RURAL RECREATION AND TOURISM PROGRAM GRANT FUNDS)

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility by the Legislature of the State of California for the administration of the Rural Recreation and Tourism Grant Program (RRT), setting up necessary procedures governing the application; and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the Applicant to certify by resolution the approval of the application before submission of said application to the State; and

WHEREAS, successful Applicants will enter into a contract with the State of California to complete the Grant Scope project;

NOW, THEREFORE, be it resolved that the City Council hereby approves the filing of an application for the Gridley Sports Complex and the Manuel Vierra Revitalization projects; and

1. Certifies that said Applicant has or will have available, prior to commencement of any work on the project included in this application, the sufficient funds to complete the project.
2. Certifies that if the project is awarded, the Applicant has or will have sufficient funds to operate and maintain the project.
3. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Grant Administration Guide.
4. Delegates the authority to City Administrator to conduct all negotiations, sign and submit all documents, including, but not limited to applications, agreements, amendments, and payment requests, which may be necessary for the completion of the Grant Scope.
5. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.
6. Will consider promoting inclusion per Public Resources Code §80001(b)(8 A-G).

I HEREBY CERTIFY that the foregoing resolution of the City Council of the City of Gridley was duly introduced, passed, and adopted at a regular meeting of the City Council of the City of Gridley held on the 16th of May 2022 by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ATTEST:

APPROVE:

Cliff Wagner, City Clerk

Bruce Johnson, Mayor

City Council Agenda Item #4
Staff Report

X	Regular
	Special
	Closed
	Emergency

Date: May 16, 2022

To: Mayor and City Council

From: Danny Howard, Utilities Director

Subject: Gridley Electric Utility Security Plan

Recommendation

Staff respectfully requests the City Council to approve the Gridley Electric Utility Security Plan

Background

On January 10, 2019, the California Public Utilities commission issued Decision (D.) 19-01-018 requiring all electric utilities to develop and implement a plan that identifies electric distribution assets that require greater protection; and (2) specifies measures to reduce the identified risks and threats to those facilities.

Fiscal Impact

None

Compliance with the City Council Strategic Plan

This recommendation is consistent with our ongoing efforts to provide safe and reliable electrical services.

Attachments

Gridley Electric Utility Security Plan Report



This document was developed by the CMUA Physical Security Working Group and is intended for general information only and is not offered or intended as legal advice. This document does not reflect minimum or mandatory elements for a Utility Security Plan, nor does this document reflect industry standards or best practices. Readers should seek the advice of an attorney when confronted with legal issues and attorneys should perform an independent evaluation of the issues raised in this document.

GRIDLEY ELECTRIC UTILITY SECURITY PLAN

**PUBLIC REPORT ON GRIDLEY ELECTRIC'S UTILITY
PHYSICAL SECURITY PROGRAM FOR DISTRIBUTION-
LEVEL FACILITIES**

May 16th, 2022

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I. OVERVIEW

A. GOAL OF UTILITY SECURITY PLAN

Ensuring the safety of its facilities is a top priority for the City of Gridley, the City prioritizes safety in all aspects of its design, operation, and maintenance practices. The overarching goal of this Utility Security Plan is to describe Gridley's risk management approach toward distribution system physical security, with appropriate consideration of resiliency, impact, and cost.

The Gridley Electric Utility (GEU) recognizes the importance of securing the safety and reliability of its electric system and, therefore, Gridley Electric Utility voluntarily participated in the California Public Utilities Commission's (CPUC) Physical Security proceeding and has undertaken this assessment. In the spirit of continued voluntary cooperation, GEU offers the following in response to CPUC Decision 19-01-018.

B. DESCRIPTION OF GRIDLEY ELECTRIC UTILITY

The City of Gridley Electric Utility is responsible for the operation and maintenance associated with the reliable distribution of electricity to residential and commercial customers from the City's interconnection with PG&E's 60KV Transmission line at Gridley's only electric substation. The City of Gridley population is estimated at 7,224 and is 2.1 square miles. There is an estimated 15 miles of overhead and underground distribution lines and 0 transmission lines.

C. RESULTS OF UTILITY SECURITY PLAN ASSESSMENT

The Gridley Electric Utility assessed 1 distribution facility. It was not determined to be a "Covered Distribution Facility," but was required to create a mitigation plan.

II. BACKGROUND

On April 16, 2013, one or more individuals attacked equipment located within Pacific Gas and Electric Company's (PG&E) Metcalf Transmission Substation, ultimately damaging 17 transformers. These individuals also cut nearby fiber-optic telecommunication cables owned by AT&T. In response to the attack, the Federal Energy Regulatory Commission (FERC) directed the North American Electric Reliability Corporation (NERC) to develop new physical security requirements, resulting in the creation of CIP-014.

At the state level, Senator Jerry Hill authored SB 699 (2014), directing the CPUC to "consider adopting rules to address the physical security risks to the distribution systems of electrical corporations." In response to SB 699, the CPUC's Safety and Enforcement Division, Risk Assessment and Safety Advisory Section (RASA) prepared a white paper proposing a new requirement for investor-owned utilities (IOUs) and publicly owned utilities (POUs) to develop security plans that would identify security risks to their distribution and transmission systems, and propose methods to mitigate those risks. The CPUC hosted a series of workshops to better understand the state of utility physical security protections and to seek input on refining their proposal.

In order to support a statewide improvement of how utilities address distribution level physical security risks, the California Municipal Utilities Association (CMUA), which is the statewide trade association for POUs, coordinated with the state's IOUs to develop a comprehensive Straw Proposal¹ (Joint IOU/POU Straw Proposal) for a process to identify at-risk facilities and, if necessary, develop physical security mitigation plans. As a member of CMUA, Gridley Electric Utility's staff participated in the development of the Joint IOU/POU Straw Proposal through a CMUA working group as well as through direct meetings with the IOUs. The Joint POU/IOU Straw Proposal set out a process for the following: (1) identifying if the utility has any high priority distribution facilities; (2) evaluating the potential risks to those high priority distribution facilities; (3) for the distribution facilities where the identified risks are not effectively mitigated through existing resilience/security measures, developing a mitigation plan; (4) obtaining third party reviews of the mitigation plans; (5) adopting a document retention policy; (6) ensuring a review process established by the POU governing board; and (7) implementing information sharing protocols.

RASA filed a response² to the Joint IOU/POU Straw Proposal that recommended various modifications and clarifications, including a six-step process. Additionally, RASA recommended that the utility mitigation plans include: (1) an assessment of supply chain vulnerabilities; (2) training programs for law enforcement and utility staff to improve communication during physical security events; and (3) an assessment of any nearby communication utility infrastructure that supports priority distribution substations.

¹ Straw Proposal available at:

https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/Safety/Risk_Assessment/physicalsecurity/R1506009-Updated%20Joint%20Straw%20Proposal%20and%20Cover%20083117%20Filing.pdf.

² RASA Response available at:

https://www.cpuc.ca.gov/uploadedFiles/CPUCWebsite/Content/Safety/Risk_Assessment/physicalsecurity/Final%20Staff%20Recommendation%20for%20Commission%20Consideration%20010318.pdf.

In early 2019, the CPUC approved Decision (D.) 19-01-018, which adopted the Joint IOU/POU Straw Proposal as modified by the RASA proposal, with additional clarifications and guidance. D.19-01-018 clarified that where there is a conflict between the Straw Proposal and the RASA proposal, then it is the rule in the RASA proposal that controls.³

D.19-01-018 asserted that the POUs should utilize the Utility Security Plan process described therein. Gridley Electric Utility is following the process and issuing this report at this time to reflect its existing commitment to safety and to protecting its ratepayers' investment by taking reasonable and cost-effective measures in an effort to safeguard key assets of its distribution system.

³ D.19-01-018 at 43, footnote 58 ("Should there be any question of which shall predominate should there be any incongruity or conflict between a utility or SED RASA recommended rule, the SED RASA rule shall apply.").

III. PLAN DEVELOPMENT PROCESS

A. PHYSICAL SECURITY PRINCIPLES

The Joint IOU/POU Straw Proposal seeks to support the creation of a risk management approach toward distribution system physical security, with appropriate considerations of resiliency, impact, and cost. In order to accomplish this risk-based approach, the Joint IOU/POU Straw Proposal identifies several principles to guide the development of each individual utility's program. These principles are the following:

1. Distribution systems are not subject to the same physical security risks and associated consequences, including threats of physical attack by terrorists, as the transmission system.
2. Distribution utilities will not be able to eliminate the risk of a physical attack occurring, but certain actions can be taken to reduce the risk or consequences, or both, of a significant attack.
3. A one-size-fits-all standard or rule will not work. Distribution utilities should have the flexibility to address physical security risks in a manner that works best for their systems and unique situations, consistent with a risk management approach.
4. Protecting the distribution system should consider both physical security protection and operational resiliency or redundancy.
5. The focus should not be on all Distribution Facilities, but only those that risk dictates would require additional measures.
6. Planning and coordination with the appropriate federal and state regulatory and law enforcement authorities will help prepare for attacks on the electrical distribution system and thereby help reduce or mitigate the potential consequences of such attacks.

B. Utility Security Plan Development Process

Gridley Electric utilized a multi-step process to develop this Utility Security Plan that is consistent with the Joint IOU/POU Straw Proposal and D.19-01-018. The relevant six steps of that process are the following:

STEP 1: ASSESSMENT/PLAN DEVELOPMENT

Gridley Electric staff and/or consultants prepare a Draft Utility Security Plan through the process set forth in Steps 1A, 1B, and 1C.

STEP 1A: IDENTIFY COVERED DISTRIBUTION FACILITIES

The Gridley Electric Utility will evaluate all distribution-level facilities in its service territory that are subject to its control to determine if any facility meets D.19-01-018's definition of a "Covered Distribution Facility" using the seven factors identified in the Joint IOU/POU Straw Proposal.

STEP 1B: PERFORM RISK ASSESSMENT

For every individual Covered Distribution Facility identified pursuant to Step 1A, Gridley Electric will perform an evaluation of the potential risks associated with a successful physical attack on that Covered Distribution Facility, and whether existing grid resiliency, back-up generation, and/or physical security measures appropriately mitigate identified risks.

STEP 1C: DEVELOP MITIGATION PLAN

If there are any individual Covered Distribution Facilities where the Risk Assessment performed pursuant to Step 1B finds that the existing mitigation and/or resiliency measures do not effectively mitigate the identified risks, then Gridley Electric will develop a Mitigation Plan for that Covered Distribution Facility. The Mitigation Plan will use a risk-based approach to select reasonable and cost-effective measures that can either be security focused (e.g., walls or alarms) or resiliency focused (e.g., adequate spare parts).

STEP 2: INDEPENDENT REVIEW

For every Utility Security Plan cycle, Gridley Electric will document the results of the identification process, risk assessment, and Mitigation Plan development performed pursuant to Steps 1A, 1B, and 1C. This documentation in combination with narrative description in Section IX below, constitutes Gridley Electric's Draft Utility Security Plan. Each Draft Utility Security Plan is submitted to a Qualified Third Party for Independent Review. The Qualified Third-Party Reviewer will then issue an evaluation that identifies any potential deficiencies in the Draft Utility Security Plan as well as recommendations for improvements. Gridley Electric] will then modify its plan to address any identified deficiencies or recommendations or will document the reasons why any recommendations were not adopted. The combination of the Draft Utility Security Plan, the non-confidential conclusions of the Qualified Third-Party Reviewer, and Gridley Electric's responses to the Qualified Third-Party Review will constitute Gridley Electric's Utility Security Plan.

STEP 3: VALIDATION

Gridley Electric will submit its Utility Security Plan to a qualified authority for review. Such entity will provide additional feedback and evaluation of Gridley Electric's Utility Security Plan and, to the extent that this entity is authorized, such entity deems the Utility Security Plan as adequate.

STEP 4: ADOPTION

Gridley Electric's Utility Security Plan will be presented to and adopted by Gridley's [governing board] at a public meeting.

STEP 5: MAINTENANCE

Gridley Electric will refine and update the Utility Security as appropriate and as necessary to preserve plan integrity.

STEP 6: REPEAT PROCESS

Gridley Electric will repeat this six-step process at least once every five years.

IV. IDENTIFICATION OF COVERED DISTRIBUTION FACILITIES (STEP 1A)

As described in Section III, Step 1A of the Utility Security Plan process involves assessing all distribution-level facilities that are subject to the control of Gridley Electric to determine which facilities are “Covered Distribution Facilities” subject to the need for a risk assessment. This Section describes the factors that Gridley Electric used to evaluate its distribution facilities and the results of its evaluation.

A. IDENTIFICATION FACTORS

The Joint IOU/POU Straw Proposal defines seven screening factors to determine if a facility is a “Covered Distribution Facility.” Some factors require additional definitions and/or clarifications in order to be applied to Gridley Electric’s facilities. The following Table provides the Joint IOU/POU Straw Proposal’s Factors as modified/clarified by Gridley Electric.

Factor	Joint IOU/POU Straw Proposal Description	Additional Clarification
1	Distribution Facility necessary for crank path, black start or capability essential to the restoration of regional electricity service that are not subject to the California Independent System Operator’s (CAISO) operational control and/or subject to North American Electric Reliability Corporation (NERC) Reliability Standard CIP-014-2 or its successors	No additional clarification.
2	Distribution Facility that is the primary source of electrical service to a military installation essential to national security and/or emergency response services (may include certain airfields, command centers, weapons stations, emergency supply depots)	No additional clarification.
3	Distribution Facility that serves installations necessary for the provision of regional drinking water supplies and wastewater services (may include certain aqueducts, well fields, groundwater pumps, and treatment plants)	An installation provides “regional drinking water supplies and wastewater services” if it is the primary source of drinking water supply or wastewater services for over 40,000 customer

		accounts for an area with a population of over 100,000.
4	Distribution Facility that serves a regional public safety establishment (may include County Emergency Operations Centers; county sheriff's department and major city police department headquarters; major state and county fire service headquarters; county jails and state and federal prisons; and 911 dispatch centers)	[POU] defines "regional public safety establishment" as any of the following: (1) Headquarters of a major police or fire department serving 1.5 million population with at least 1,000 sworn officers; (2) County Sheriff's Department Headquarters; (3) County Emergency Operations Center; (4) County/State Fire headquarters; (5) a California State Prison; (5) a United States Penitentiary; or (6) a Federal Correctional Institute.
5	Distribution Facility that serves a major transportation facility (may include International Airport, Mega Seaport, other air traffic control center, and international border crossing)	In addition to the facilities listed in the Joint IOU/POU Straw Proposal, Gridley Electric defines a "major transportation facility" as any transportation facility that has (1) an average of 600 or more flights per day; or (2) over 50,000 passengers arriving or departing per day.
6	Distribution Facility that serves as a Level 1 Trauma Center as designated by the Office of Statewide Health Planning and Development	No additional clarification.
7	Distribution Facility that serves over 60,000 meters	No additional clarification.

B. IDENTIFICATION ANALYSIS

In performing this identification analysis, Gridley Electric is assessing all distribution level facilities that are subject to its exclusive control, or if the facility is jointly owned, the joint ownership agreement identifies Gridley Electric as the entity responsible for operation and maintenance. The specific types of facilities include substations.

Based on this scope, Gridley has identified 1 facility that is subject to this identification analysis. Of this 1 facility, 0 fall within one of the categories listed above. None of Gridley Electric's facilities constitute as a "Covered Distribution Facilities."

The following table summarizes the results of Gridley Electric's identification analysis.

Facility ID	1. Crank Path, Black Start	2. Military Installation	3. Regional Drinking Water/ Wastewater Services	4. Regional Public Safety	5. Major Transportation Facility	6. Level 1 Trauma Center	7. Over 60,000 Meters
Substation 1	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Substation 2							
Substation 3							
Substation 4							
Substation 5							

V. RISK ASSESSMENT (STEP 1B)

A. METHODOLOGY

Pursuant to the process identified in the Joint IOU/POU Straw Proposal and D.19-01-018, Gridley Electric will assess the potential risks associated with a successful physical attack on each of the Covered Distribution and Non-Covered Facilities identified in Section IV above. For purpose of this analysis, a physical attack is limited to the following: (1) theft; (2) vandalism; and (3) discharge of a firearm. A "successful physical attack" is limited to circumstances where a theft, vandalism, and/or the discharge of a firearm has directly led to the failure of any elements of the Covered Distribution Facility that are necessary to provide uninterrupted service to the specific load identified in Section IV.

In order to perform this risk analysis, Gridley Electric evaluates the relative risk that (1) a physical attack on a Distribution Facility will be successful considering the protective measures in place; or (2) that the impacts of a successful attack will be mitigated due to resiliency and other measures in place.

B. MITIGATION MEASURES

D.19-01-018 identifies the specific mitigation measures that a utility should consider when performing this risk analysis. The following table lists these mitigation measures and provides Gridley Electric's additional clarifications that are necessary to apply these measures to the Gridley Electric's territory.

Measure	D.19-01-018 Description	Additional Clarification
1	The existing system resiliency and/or redundancy solutions (e.g., switching the load to another substation or circuit capable of serving the load, temporary circuit ties, mobile generation and/or storage solutions).	No additional clarification.
2	The availability of spare assets to restore a particular load.	No additional clarification.
3	The existing physical security protections to reasonably address the risk.	No additional clarification.
4	The potential for emergency responders to identify and respond to an attack in a timely manner.	Each facility is evaluated based on the likelihood that a law enforcement officer would generally be able to arrive at the Distribution Facility within 15 minutes of a report from the public of a break-in or attack, or of Gridley Electric notifying the law enforcement agency of triggering of an alarm at the facility.

5	Location and physical surroundings, including proximity to gas pipelines and geographical challenges, and impacts of weather.	Gridley evaluated this element based on the proximity of the Distribution Facility to populated areas and the extent to which the interior of the facility is shielded from view and access due to walls, vegetation, or other physical obstructions.
6	History of criminal activity at the Distribution Facility and in the area.	Gridley Electric evaluated the property crime rates in the immediate vicinity of the Distribution Facility and compared those crimes rates to property crime rates for the county and the state to determine if the area is subject to a higher-than-average incidence of property related crimes.
7	The availability of other sources of energy to serve the load (e.g., customer owned back-up generation or storage solutions).	No additional clarification.
8	The availability of alternative ways to meet the health, safety, or security.	No additional clarification.
9	Requirements served by the load (e.g., back up command center or water storage facility).	No additional clarification.

C. RISK ASSESSMENT

Based on the process described in the Joint IOU/POU Straw Proposal and the direction provided in D.19-01-018, Gridley Electric has determined there are 0 Covered Distribution Facilities identified in Section IV, the existing programs and measures effectively mitigate the risks of a physical attack for 1 substation Gridley Electric Maintains.

Gridley Electric security at its substation consist of motion alarms, high fencing, infrastructure protection from City Police Dept. and weekly inspections.

The follow table provides a summary of Gridley Electric's assessment of each mitigation measure for each substation.

Facility ID	1. Existing Resiliency	2. Spare Assets	3. Existing Physical Security	4. Emergency Responders	5. Location	6. Criminal History	7. Back up Generation	8-9. Alternate Solution	Risk Level
Substation 1	YES	YES	YES	YES	YES	YES	YES	YES	
Substation 2									
Substation 3									
Substation 4									
Substation 5									

As identified above, 0 of the Covered Distribution Facilities do not have existing mitigating measures sufficient to effectively mitigate the identified risks of a physical attack. These facilities are discussed in Section VI.

VI. COVERED DISTRIBUTION FACILITY MITIGATION PLANS (STEP 1C)

Pursuant to the process identified in the Joint IOU/POU Straw Proposal and D.19-01-018, Gridley Electric has determined that its only Distribution Facility is not considered a “Covered Distribution Facility,” subject to Gridley Electric’s control.

VII. INDEPENDENT EVALUATION AND RESPONSE (STEP 2)

A. REQUIREMENTS FOR QUALIFIED THIRD-PARTY REVIEW

D.19-01-018 specifies the following criteria for a Qualified Third-Party Reviewer:

Independence: A Qualified Third-Party Reviewer cannot be a division of the Gridley Electric. A governmental entity can select as the third-party reviewer another governmental entity within the same political subdivision, so long as the entity has the appropriate expertise, and is not a division of the POU that operates as a functional unit, i.e., a municipality could use its police department as its third-party reviewer if it has the appropriate expertise.

Adequate Qualifications: A Qualified Third Party Reviewer must be an entity or organization with electric industry physical security experience and whose review staff has appropriate physical security expertise, which means that it meets at least one of the following: (1) an entity or organization with at least one member who holds either an ASIS International Certified Protection Professional (CPP) or Physical Security Professional (PSP) certification; (2) an entity or organization with demonstrated law enforcement, government, or military physical security expertise; or (3) an entity or organization approved to do physical security assessments by the CPUC, Electric Reliability Organization, or similar electrical industry regulatory body.

B. IDENTIFICATION OF THIRD-PARTY REVIEWER

Gridley Electric has selected as its Third-Party Reviewer Rodney Harr.

[City of Gridley Police Chief]

C. PUBLIC RESULTS OF THIRD-PARTY EVALUATION

As third-party independent reviewer, the Gridley Policy Department concurs with the conclusions of Gridley's Electric utility that there are no distribution assets that are covered under any of the seven factors identified in Section IV. A. of the Gridley Physical Security Plan. Therefore, there are no identified deficiencies or recommendations for improvements for consideration currently.

D. GRIDLEY ELECTRIC UTILITY RESPONSE

Given the conclusions of the third-party evaluator, no changes have been made to this Plan in response to the evaluation.

VIII. VALIDATION (STEP 3)

A. SELECTION OF QUALIFIED AUTHORITY

The Gridley Electric Utility has determined that Rodney Harr (COG Police Chief) has sufficient familiarity with relevant federal, state, and local standards relating to critical asset protection and emergency response in order to serve as the “qualified authority” for the review of Gridley Electric Utilities Security Plan.

B. RESULTS OF QUALIFIED AUTHORITY REVIEW

On 6/14/2021, Gridley Electric Utility submitted its draft Utility Security Plan to Rodney Harr for review. The scope of Rodney Harr's review is to assess the overall adequacy of the plan, based on the reviewer's [or reviewers'] expertise. In this review, Rodney Harr makes no claims regarding the compliance of Gridley Electric's Utility Security Plan with any specific requirement or standard. Further, Rodney Harr has not assessed, and makes no claim regarding, Gridley Electric's Utility Security Plan's conformance to D.19-01-018 or any other CPUC standards. Finally, Rodney Harr's review is limited to the information contained within Gridley Electric's Utility Security Plan, and Rodney Harr has not performed any additional audits of any identified facilities or reviewed any documents outside of the information directly included within the Utility Security Plan.

C. [POU] RESPONSE TO QUALIFIED AUTHORITY REVIEW

Based on this review, Rodney Harr deems the Gridley Electric's Utility Security Plan adequate and recommends that City Council adopt the Gridley Electric Utility Security Plan.

IX. NARRATIVE DESCRIPTIONS FOR UTILITY SECURITY PLAN

A. ASSET MANAGEMENT PROGRAM

Gridley Electric is taking steps to implement an asset management program to promote optimization, and quality assurance for tracking and locating spare parts stock, ensuring availability, and the rapid dispatch of available spare parts.

B. WORKFORCE TRAINING

Gridley Electric is taking steps towards a workforce training and retention program to employ a full roster of highly qualified service technicians able to respond to make repairs in short order throughout a utility's service territory using spare parts stockpiles and inventory.

C. PREVENTATIVE MAINTENANCE PLAN

Gridley Electric is taking steps to implement a preventative maintenance plan for security equipment to ensure that mitigation measures are functional and performing adequately.

City Council Agenda Item #5
Staff Report

Date: May 16, 2022
To: Mayor and City Council
From: Cliff Wagner, Administrator
Subject: City of Gridley Smoke Free Outdoor Parks Ordinance

X	Regular
	Special
	Closed
	Emergency

Recommendation

City staff is seeking Council direction regarding Council Member Sanchez’s proposal to develop a smoke free outdoor parks ordinance.

Background

Chapter 8.24 of the City of Gridley Municipal Code, entitled Regulation of Smoking in Designated Enclosed Public Places and Workplaces, currently governs smoking restrictions in limited public and workplaces. Some of these include prohibitions against smoking: City-owned facilities, health facilities, hospitals, clinics, physical therapy facilities, doctors' offices and dentists’ offices, theaters, auditoriums, retail food marketing establishments, public schools, and other public facilities under the control of another public agency, which are available to and customarily used by the public, to the extent that the same are subject to the jurisdiction of the city.

Currently, Chapter 8.24 of the City of Gridley Municipal Code makes no provision regarding the regulation of smoking in outdoor parks.

Fiscal Impact

None

Compliance with City Council Strategic Plan or Budget Goals

This course of action is consistent with the City of Gridley's commitment to achieve maximum efficiency for operations and services.

Attachments

Chapter 8.24
Draft Smoke Free Outdoor Parks Ordinance

Chapter 8.24 Regulation of Smoking in Designated Enclosed Public Places and Work Places

- 8.24.010 Purpose and findings.**
- 8.24.020 Definitions.**
- 8.24.030 Regulation of smoking in city-owned facilities.**
- 8.24.040 Prohibition of smoking in enclosed places.**
- 8.24.050 Regulation of smoking in places of employment.**
- 8.24.060 Smoking--optional areas.**
- 8.24.070 Posting requirement.**
- 8.24.080 Administration and implementation.**
- 8.24.090 Penalties.**
- 8.24.100 Non-retaliation.**
- 8.24.110 Other applicable laws.**
- 8.24.120 Severability.**
- 8.24.130 Other agency cooperation.**

8.24.010 Purpose and findings.

The City Council of the City of Gridley finds that:

- A. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; and
- B. Reliable studies have shown that breathing sidestream or secondhand smoke is a significant health hazard for certain population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; and
- C. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and
- D. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same; and
- E. The smoking of tobacco, or any other weed or plants, is a proven danger to health. Accordingly, it has been determined that the health, safety and general welfare of the residents of, persons employed in, and persons who frequent this city would be benefitted by the regulation of smoking in enclosed places, including places of employment.

(Ord. 563, 1990).

8.24.020 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as set out in this section, unless it is apparent from the context that they have a different meaning:

- A. "Bar" means an area which is devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.
- B. "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit.
- C. "Employer" means any person, partnership, corporation, including municipal corporation, who employs the services of more than four persons.
- D. "Enclosed" means closed in by roof and four walls with appropriate openings of ingress and egress.
- E. "Place of Employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including rooms, and employee cafeterias. A private residence is not a place of employment, unless said residence is used as a child care or a health care facility.
- F. "Private function" means any function to which the general public is not invited.
- G. "Smoking" means the carrying or holding of a lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment or the lighting or emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind.

(Ord.1 563, 1990).

8.24.030 Regulation of smoking in city-owned facilities.

All enclosed facilities owned by the city shall be subject to the provisions of this chapter.

(Ord. 563, 1990).

8.24.040 Prohibition of smoking in enclosed places.

Smoking shall be prohibited in the following places within the city:

- A. All enclosed areas available to and customarily used by the general public and all businesses patronized by the public, including, but not limited to, retail stores, hotels and motels, pharmacies, banks, attorneys' offices and other offices;
- B. Within all restaurants having a seating capacity of fifty or more persons; provided, however, that this prohibition does not prevent:
 - 1. The designating of a contiguous area within the restaurant that contains no more than fifty percent of the seating capacity of the restaurant as a smoking area, or
 - 2. The providing of separate rooms designated as smoking rooms, so long as said rooms do not contain more than fifty percent of the seating capacity of the restaurant;
- C. Waiting rooms, hallways, wards, and semi-private rooms of health facilities, including, but not limited to hospitals, clinics, physical therapy facilities, doctors' offices and dentists' offices, except that health facilities shall also be subject to the provisions of Section 8.24.050 of this chapter regulating smoking in places of employment;
- D. Elevators, public restrooms, indoor service lines, buses, taxicabs and other means of public transit under the authority of the city, and in ticket, boarding, and waiting areas of public transit depots; provided, however, that this prohibition does not prevent:
 - 1. The establishment of separate waiting area for smokers and nonsmokers, or
 - 2. The establishment of at least fifty percent of a given waiting area as a nonsmoking area;
- E. In public areas of museums, galleries;
- F. Enclosed theaters, auditoriums, and halls which are used for motion pictures, stage dramas and musical performances, ballets or other exhibitions, except when smoking is part of any such production and where specific smoking areas have been established in lobbies;
- G. Retail food marketing establishments, including grocery stores and supermarkets, except those areas of such establishment set aside for the serving of food and drink, restrooms and offices, and areas thereof not open to the public, which may be otherwise regulated by this chapter;
- H. Public schools and other public facilities under the control of another public agency, which are available to and customarily used by the general public, to the extent that the same are subject to the jurisdiction of the city;
- I. Notwithstanding any other provisions of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment is a nonsmoking establishment.

(Ord. 563, 1990).

8.24.050 Regulation of smoking in places of employment.

- A. It shall be the responsibility of employers to provide smoke-free areas for nonsmokers within existing facilities to the maximum extent possible, but employers are not required to incur any expense to make structural or other physical modifications in providing these areas.
- B. Within ninety (90) days of the effective date of this chapter, each employer and each place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy, which shall contain at a minimum the following requirements:
 - 1. Prohibition of smoking in conference and meeting rooms, classrooms, auditoriums, restrooms, medical facilities, hallways, and elevators;
 - 2. Any employee in a place of employment shall be given the right to designate his or her immediate work area as a nonsmoking area and to post the same with an appropriate sign or signs, to be provided by the employer. The policy adopted by the employer shall include a reasonable definition of the term "immediate work area."
 - a. In any dispute arising under this smoking policy, the rights of the nonsmoker shall be given precedence.
 - b. Provision and maintenance of a separate and contiguous nonsmoking area of not less than fifty percent of the seating capacity and floor space in cafeterias, lunchrooms and employee lounges.
 - c. The smoking policy shall be communicated to all employees within three weeks of its adoption, and at least annually thereafter.

d. Notwithstanding the provisions of subsection a. of this subsection, every employer shall have the right to designate any place of employment, or portion thereof, as a nonsmoking area.

(Ord. 563, 1990).

8.24.060 Smoking--Optional areas.

Notwithstanding any other provisions of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this chapter:

- A. Private residences, unless said residence is used as a child care or a health care facility;
- B. Bars;
- C. Hotel and motel rooms rented to guests;
- D. Retail stores that deal exclusively in the sale of tobacco and smoking paraphernalia;
- E. Restaurants, hotel and motel conference or meeting rooms, and public and private assembly rooms while these places are being used for private functions;
- F. A private enclosed place occupied exclusively by smokers, even though such a place may be visited by nonsmokers, and private enclosed offices, excepting places in which smoking is prohibited by the fire department or by any other law, ordinance or regulation.

(Ord. 563, 1990).

8.24.070 Posting requirement.

A. "Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle not less than four inches in diameter with a red bar across it), shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is controlled by this chapter, by the owner, operator, manager or other person having control of such building or other place.

B. Every restaurant regulated by this ordinance will have posted at its entrance a sign clearly stating that a nonsmoking section is available, and every patron shall be asked as to his or her preference.

(Ord. 563, 1990).

8.24.080 Administration and implementation.

A. Administration of this chapter shall be by the Butte County Health Department or its designees.

B. Any citizen who desires to register a complaint hereunder may request the Butte County Health Department or its designees to consider enforcement by either of the following actions:

1. Serving notice requiring the correction of any violation of this chapter;
2. Calling upon the district attorney to maintain any action for injunction to enforce the provisions of this chapter, to cause the correction of any such violation, and for assessment and recovery of the penalty for such violation.

C. Any owner, manager, operator or employer of any establishment controlled by this chapter shall have the right to inform persons violating this chapter of the appropriate provisions thereof.

D. The fire department or the health department shall require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, or operator or other person having control of such establishment that all requirements of this chapter have been complied with.

E. No Liability for Nonenforcement. In undertaking the enforcement of this chapter, the county is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

F. When the provisions of this chapter are not remedied by county officials, civil action against Butte County is denied and county is absolved for any responsibility to enforce and/or any liability for failure to enforce.

(Ord. 563, 1990).

8.24.090 Penalties.

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to the restrictions of this chapter to fail to: properly post signs required hereunder; provide signs for the use of employees in designating their areas; properly set aside "no smoking" areas; to adopt a smoking restriction policy; or to comply with any other requirements of this chapter.

B. It is unlawful for any person to smoke in any area restricted by the provisions of this chapter.

C. It is unlawful to mutilate or destroy any signs required by this chapter.

D. Any person/business who violates subsections A, B, or C of this section, or any other provisions of this chapter, is guilty of an infraction and upon conviction thereof shall be punished by:

1. A fine, not exceeding one hundred dollars, for the first violation;
2. A fine, not exceeding two hundred dollars, for a second violation of this chapter within one year;
3. A fine, not exceeding five hundred dollars, for each additional violation of this chapter within one year.

E. The provisions of this section may be enforced in the manner in which infractions are customarily enforced within the city.

(Ord. 563, 1990).

8.24.100 Non-retaliation.

No person or employer shall discharge, refuse to hire, or in any manner, retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter.

(Ord. 563, 1990).

8.24.110 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Ord. 563, 1990).

8.24.120 Severability.

The provisions of Gridley Municipal Code Section 1.01.100 regarding severability are incorporated into this chapter.

(Ord. 563, 1990).

8.24.130 Other agency cooperation.

Federal, State, County, school and all other district officials are urged to enact and enforce provisions similar to the provisions contained in this chapter.

(Ord. 563, 1990).

OUTDOOR PARKS SMOKE-FREE ORDINANCE

AN ORDINANCE OF THE CITY OF GRIDLEY REGULATING THE USE OF TOBACCO, NICOTINE, AND OTHER PRODUCTS IN OUTDOOR AREAS, AND AMENDING THE GRIDLEY MUNICIPAL CODE

The CITY COUNCIL of GRIDLEY does ordain as follows:

SECTION I. FINDINGS AND PURPOSE

WHEREAS, tobacco use causes death and disease and continues to be an urgent public health threat, as evidenced by the following:

- The World Health Organization (WHO) estimates that tobacco kills up to half of its users, amounting to more than 8 million deaths each year worldwide, including nearly half a million people who die prematurely from smoking in the United States alone;¹
- Tobacco use causes disease in nearly all organ systems and is responsible for an estimated 87% of lung cancer deaths, 32% of coronary heart disease deaths, and 79% of all chronic obstructive pulmonary disease deaths in the United States;²
- The estimated economic damage attributable to smoking and exposure to secondhand smoke in the United States is nearly \$300 billion annually;²
- Despite significant progress, tobacco use remains the leading cause of preventable death and disease in the United States;² and

WHEREAS, tobacco use is the number one cause of preventable death in California² and continues to be an urgent public health issue, as evidenced by the following:

- An estimated 40,000 California adults die from smoking annually;³
- Each year, smoking costs California an estimated \$13.3 billion in direct health care expenses, \$3.6 billion in Medicaid costs, and \$10.4 billion in productivity losses;⁴
- Research indicates that more than 25% of all adult cancer deaths in California are attributable to smoking;⁵ and

WHEREAS, significant disparities in tobacco use exist in California, which create barriers to health equity,⁶ as evidenced by the following:

- African American (17.0%) and American Indian (19.1%) Californians report a higher smoking prevalence than white Californians (11.8%);⁷
- The American Indian population in California reports the highest cigarette smoking rate among adults, and American Indian youth report the highest rate of smoking among high school students;⁷
- Californians with the highest levels of educational attainment and annual household income report the lowest smoking rates;⁷
- Those who identify as lesbian, gay, bisexual, or transgender in California report smoking at higher rates than those who do not;⁷

Commented [PHLC1]: As requested, we have prepared a draft ordinance for Gridley to prohibit smoking and vaping in parks. Where pertinent we offer recommended language for consideration.

We were asked to specifically address parks, and limit our drafting to parks. We additionally were asked to ensure both vaping and smoking are addressed. We were also asked to draft a findings and definition section, which we have based on our model policy language, and to draft enforcement language in the form of warnings/citations. We have done this as well.

Public Health Law Center does not lobby, nor does it provide legal representation or advice. However, based on our experiences with commercial tobacco regulatory policies throughout the country, we are able to provide you with our observations and other educational information for your own evaluation of the policy. This information is for **educational purposes only**; we do not request that a policymaker take any specific action in regard to our comments, nor should our comments be considered a replacement for legal advice. If you require a legal opinion, we encourage you to consult with local legal counsel.

Commented [PHLC2]: We fully encourage findings and purpose sections such as these. We have included our model policy Findings, from which our partners and Gridley may elect and tailor. The PHLC model language includes a robust evidence base informing the findings and purpose.

The findings and purpose section is important because it provides the evidentiary basis for the proposed commercial tobacco control policies and demonstrates the city's reasoning for adopting specific provisions. In addition to serving an educational purpose and building support for the ordinance, the findings can also serve a legal purpose. If the ordinance is challenged in court, the findings are typically an admissible record of the factual determinations made by the legislative body when considering the ordinance.

- Californians who live in multiunit housing report smoking cigarettes at a higher rate (13.1%) than those who live in a house (9.7%);⁷
- Californians who reported experiencing psychological distress in the preceding month smoked at a rate far higher (26.7%) than the average statewide smoking rate (11.0%);⁷ and

WHEREAS, secondhand smoke has been repeatedly identified as a health hazard, as evidenced by the following:

- In 2006, the U.S. surgeon general concluded that there is no risk-free level of exposure to secondhand smoke;⁸
- In 2006, the California Air Resources Board identified secondhand smoke as a toxic air contaminant, in the same category as the most toxic automotive and industrial air pollutants, and a serious health threat for which there is no safe level of exposure;^{9,10}
- In 2006, the California Environmental Protection Agency added secondhand smoke to the Proposition 65 list of chemicals known to the state of California to cause cancer, birth defects, and other reproductive harm;¹¹

WHEREAS, exposure to secondhand smoke anywhere has negative health impacts, and exposure to secondhand smoke can occur at significant levels outdoors, as evidenced by the following:

- Levels of secondhand smoke exposure outdoors can reach levels recognized as hazardous, depending on direction and amount of wind, number and proximity of smokers, and enclosures like walls or roofs;^{12–18}
- Smoking cigarettes near building entryways can increase air pollution levels by more than two times background levels, with maximum levels reaching the “hazardous” range on the United States EPA’s Air Quality Index;^{15,17} and
- To be completely free from exposure to secondhand smoke in outdoor places, a person may have to move 20 to 29 feet away from the source of the smoke, about the width of a two-lane road;^{15,19,20}

WHEREAS, exposure to secondhand smoke causes death and disease, as evidenced by the following:

- Since 1964, approximately 2.5 million nonsmokers have died from health problems caused by exposure to secondhand smoke;²
- Secondhand smoke was responsible for an estimated 34,000 heart disease-related and 7,300 lung cancer-related deaths among adult nonsmokers each year during 2005–2009 in the United States;²
- Research indicates that exposure to secondhand smoke increases the risk of coronary heart disease by 25% to 30% and increases the risk of stroke by 20% to 30%;^{2,21} and
- Secondhand smoke kills more than 400 infants every year;²²

WHEREAS, electronic smoking device aerosol may be considered a health hazard, as evidenced by the following:

- Research has found electronic smoking device aerosol contains at least 12 chemicals known to the State of California to cause cancer, birth defects, or other reproductive harm,^{11,23,24} such as formaldehyde, acetaldehyde, lead, nickel, chromium, arsenic, and toluene;^{24,25}
- Electronic smoking device aerosol is not harmless water vapor as it contains varying concentrations of particles and chemicals with some studies finding particle sizes and nicotine concentrations similar to, or even exceeding, conventional cigarette smoke;^{24, 26–28}
- Evidence continues to build that exposure to electronic smoking device aerosol, including secondhand exposure, has immediate impacts on the human respiratory and cardiovascular systems, and poses a risk to human health;^{24,26,28–34}
- Given the increasing prevalence of electronic smoking device use, especially among youth and young adults, widespread nicotine exposure resulting in addiction and other harmful consequences serious concerns;^{24,26,35,36}

WHEREAS, secondhand cannabis smoke has been identified as a health hazard, as evidenced by the following:

- The California Environmental Protection Agency includes cannabis smoke on the Proposition 65 list of chemicals known to the state of California to cause cancer;^{11,37}
- Cannabis smoke contains at least 33 known carcinogens;³⁷
- In one study, exposure to cannabis smoke in an unventilated setting resulted in detectable levels of cannabinoids in non-smoker participants' blood and urine, and participants experienced minor increases in heart rate and impaired cognitive performance;³⁸ and
- A recent systematic review of the literature concluded that secondhand exposure to cannabis smoke leads to cannabinoid metabolites in bodily fluids and individuals experiencing self-reported psychoactive effects;³⁹

WHEREAS, laws restricting the use of tobacco products have recognizable benefits to public health and can reduce medical costs; these outcomes, consistently demonstrated in peer-reviewed research, include the following:

- Reduced prevalence of tobacco use;^{40,41}
- Reduced secondhand smoke exposure, as measured by self-report and laboratory analysis of biomarkers or indoor air;^{40–43}
- Increased cessation of tobacco use;^{40,41}
- Reduced initiation of tobacco use among young people;⁴⁰
- Fewer hospitalizations from tobacco-related diseases, such as asthma and cardiovascular disease;^{40,41,44} and

- An estimated annual savings rate in the U.S. of \$148,000 to \$409,000 (2011 U.S. dollars) per 100,000 people in averted secondhand smoke-related healthcare costs;⁴⁰

WHEREAS, smokeless tobacco and electronic smoking devices are not safe alternatives to smoking and carry their own risks for death and disease, as evidenced by the following:

- Smokeless tobacco use can lead to nicotine addiction;^{2,45}
- Smokeless tobacco use causes oral, esophageal, and pancreatic cancers;^{2,45,46}
- Smokeless tobacco use is associated with increased risk for heart disease and stroke,^{46–48} and stillbirth and preterm delivery;^{49,50} and

WHEREAS, tobacco waste is a major, consequential, and persistent source of litter, as evidenced by the following:

- The roughly 6.3 trillion cigarettes smoked globally each year result in 300 billion packs that produce almost 2 million tons of waste paper, cellophane, foil, and glue as well as trillions of butts littered across roadways, sidewalks, parks, and other green spaces;^{51,52}
- Both tobacco industry and peer-reviewed research found that most smokers admit littering their cigarette butts,^{53,54} for example, one study found 74.1% of smokers admitted littering cigarette butts at least once in their life and 55.7% admitted to littering them in the past month;⁵⁴
- In an observational study of nearly 10,000 individuals, 65% of smokers disposed of their cigarette butts as litter;⁵⁴
- Cigarette butts are perennially the most common form of litter collected during cleanup programs worldwide,^{53,56} for example, in 2018, cigarette butts made up nearly 16% of all litter collected through cleanup programs in the U.S. (809,538 out of 5,106,515 items);⁵⁶
- Cigarette butts are often cast onto sidewalks and streets, and frequently end up in storm drains that flow into streams, rivers, bays, lagoons, and ultimately the ocean;⁵¹
- Non-cigarette forms of tobacco waste, such as plastic cigar tips and little cigar wrappers, also significantly contribute to litter;^{57–59}
- Waste from electronic smoking devices has become a recognized and growing form of litter.^{58,60,61} For example, a recent study among twelve high schools in the San Francisco Bay Area found that electronic cigarette waste made up nearly 20% (172 of 893 items) of all tobacco or cannabis product waste found on school property with the largest amount (152 items) and highest percentage (39.4%) of electronic cigarette waste observed at upper income schools;⁵⁸ and
- As of August 2019, the U.S. Environmental Protection Agency recognizes nicotine-containing electronic smoking devices as acute hazardous waste when disposed;⁶²

WHEREAS, cigarette butts, smokeless tobacco, and electronic smoking devices pose a health threat of poisoning to young children, as evidenced by the following:

- In 2018, American poison control centers logged nearly 13,000 cases involving exposure to cigarettes, cigarette butts, electronic smoking devices, or other tobacco products, and of these, more than 10,000 (79.0%) occurred in children aged 5 years and younger;⁶³
- Among the 10,266 cases of nicotine and tobacco product exposure recorded in 2018 among children 5 years of age and younger by American poison control centers, 50.3% involved cigarettes, 18.4% involved electronic smoking devices, and 8.0% involved other tobacco products;⁶³
- The annual number of electronic cigarette exposure cases among children less than 5 years of age reported to American poison control centers increased from 10 in 2010 to 1,835 in 2018, a 14,015% increase;⁶⁴ and
- Children who ingest tobacco products can experience vomiting, nausea, lethargy, and gagging,⁶⁵ with e-liquids potentially posing a greater risk of toxicity or fatality through either ingestion or transdermal absorption;⁶⁶

WHEREAS, exemptions and loopholes, often intentionally placed in California's smoke-free workplace laws,⁶⁷ disproportionately impact low-income communities and communities of color as well as those who work predominantly outdoors as evidenced by the following:

- California Labor Code does not prohibit smoking in cabs of trucks, long-term care facilities, outdoor places of employment, tobacco shops, private smokers' lounges, and up to 20 percent of hotel rooms. Employees in these areas are disproportionately individuals of low- income and individuals of color;⁶⁸
- One study in California found Hispanic/Latino workers were most likely to report secondhand smoke exposure at work (19.5%), followed by non-Hispanic other race(13.7%), Asian/Pacific Islander (10.5%), African American (10.4%), and Caucasian (9.7%) workers;⁶⁹ and
- In a survey of employed Bay Area young adults, 32.6% reported workplace exposure to secondhand smoke, nearly all of whom (95.7%) reported outdoor exposure, and most of whom worked in one of four occupational categories: construction and extraction, transportation and material moving occupations, building and grounds cleaning and maintenance, and food preparation and serving;⁷⁰

WHEREAS, California cities and counties have the legal authority to adopt local laws that prohibit all tobacco use indoors and outdoors in areas not already covered by state law;⁷¹

WHEREAS, state law prohibits smoking within 25 feet of playgrounds and tot lots as well as within 20 feet of public (state, county, city, or community college district) buildings, among other locations, and expressly authorizes local communities to enact additional restrictions;⁷²⁻⁷⁴

WHEREAS, there is broad public recognition of the dangers of secondhand smoke and support for smoke-free air laws, as evidenced by the following:

- A 2017 survey of California adults found that an overwhelming majority agree that secondhand smoke causes cancer and 82.1% agree that aerosol and vapor from electronic smoking devices are harmful;⁷⁵
- A 2018 survey of California adults found widespread public agreement that smoking should not be allowed at public beaches (78%);⁷ and
- In a 2015 survey of California voters, 70% supported prohibiting electronic smoking device use where smoking is prohibited;⁷⁶

WHEREAS, as of January 2019, there are more than 235 California cities and counties with outdoor secondhand smoke ordinances;⁷

WHEREAS, as of April 1, 2020, more than 140 local jurisdictions in California prohibit the use of electronic smoking devices in specific locations;⁷⁷

WHEREAS, as of October 2017, there are more than 210 California municipalities with local laws restricting smoking in parks,⁷⁸ 64 with local laws restricting smoking at beaches,⁷⁹ 104 with local laws restricting smoking in all bar patio and outdoor dining places,⁸⁰ and 112 with local laws restricting smoking at outdoor public transit waiting areas;⁸¹

WHEREAS, there is no Constitutional right to smoke or use tobacco or nicotine products;⁸² and

NOW THEREFORE, it is the intent of the City Council of Gridley, in enacting this ordinance, to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking, tobacco, and nicotine use around non-tobacco and non-nicotine users, especially children; by protecting the public from exposure to secondhand smoke where they live, work, and play; by reducing the potential for children to wrongly associate of smoking, tobacco, and nicotine use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City.

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SECTION II. Chapter 8.XX of the Gridley Municipal/County Code is hereby amended to read as follows:

Sec. [(*1)]. DEFINITIONS.

For the purposes of this Chapter the following definitions shall govern unless the context clearly requires otherwise:

- (A) "Cannabis" has the meaning set forth in California Business and Professions Code Section 26001, as that section may be amended from time to time.
- (B) "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (C) "Park" means any public place, whether publicly or privately owned, within the City, established as a recreational park and/or playground, or as trails, or otherwise as deemed within the jurisdiction of the Recreation Services department of the City.
- (D) "Person" means any natural person, business, corporation, partnership, cooperative association, personal representative, receiver, trustee, assignee, or any other legal entity.
- (E) "Smoke" or "Smoking" means:
 - (1) inhaling, exhaling, or burning, any tobacco, nicotine, cannabis, or plant product, whether natural or synthetic.
 - (2) carrying any lighted, heated, or activated tobacco, nicotine, cannabis, or plant product, whether natural or synthetic, intended for inhalation; or
 - (3) using an electronic smoking device or hookah.
- (P) "Tobacco product" means:
 - a) any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether inhaled,

Commented [PHLC3]: Chapter 8 is where the indoor smokefree provision and the other tobacco regulations are found. Gridley can append this outdoor smoking rule to a current section or establish a new section under this chapter.

Commented [PHLC4]: We have included those definitions from our model policy which are pertinent to this version of the draft proposal. PHLC's model policy on outdoor smokefree air is comprehensive, and so the definition section here is tailored to the request that this ordinance's application be only to parks.

Commented [PHLC5]: Included as cannabis can be consumed in the same manner as combustible tobacco and e-cigarettes.

Commented [PHLC6]: We have created this definition as requested, and it covers current and any future parks. Our model policy rolls parks under the broader definitions of public place - which we have removed for this drafting - and Recreational Facilities - which we have also removed along with other definitions that would not apply to a limited outdoor smoking ordinance. PHLC's model policy is comprehensive and may be of interest for future strengthening of Gridley's outdoor smokefree law(s).

Commented [PHLC7]: Our language here is broad, and includes combustible cigarettes as well as electronic smoking devices (vaping devices) and cannabis products.

absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;

- b) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
- c) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes.

“Tobacco product” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

- (Q) “Tobacco product waste” means any component, part, or remnant of any tobacco product. Tobacco product waste includes any waste that is produced from the use of a tobacco product, including all tobacco product packaging and incidental waste such as lighters or matches, whether or not it contains tobacco or nicotine.

Sec. [(*2)]. PROHIBITION OF SMOKING IN PARKS.

Smoking is prohibited in all parks within the City.

- (A) Nothing in this chapter prohibits any person or employer with control over any property from prohibiting smoking on any part of such property, even if smoking is not otherwise prohibited in that area.
- (B) It is not a violation of this chapter to use tobacco as part of a Native American spiritual or cultural ceremony. Approval from city administration must be requested and received prior to the ceremony, and the ceremony must be conducted in compliance with pertinent laws and regulations.

Sec. [(*3)]. SMOKE-FREE BUFFER ZONES.

Smoking shall be prohibited within twenty-five (25) feet from any area in which smoking is prohibited under Sec. [(*2)] of this chapter or by any other law.

Sec. [(*4)]. TOBACCO WASTE.

- (A) No person or employer shall permit smoking ash receptacles within an area under their control and in which smoking is prohibited by law, including within twenty-five (25) feet from any area in which smoking is prohibited. The presence of smoking ash receptacles in violation of this subsection shall not be a defense to a charge of smoking, tobacco, or nicotine use in violation of any provision of this chapter.
- (B) No person shall dispose of tobacco product waste within the boundaries of an area in which smoking is prohibited.

Sec. [(*5)]. ENFORCEMENT.

Commented [PHLC8]: This provision recognizes the cultural practices with tobacco that some Indigenous/Native American/Tribal communities practice. Including a provision like this can promote equity and respect while also noting that commercial tobacco product use is distinct from non-commercial use.

Commented [PHLC9]: We include this provision of our model policy that the City may consider adopting. Current State law prohibits smoking within 25 feet of entryways and ingress/egress into places wherein smoking is prohibited, and this has been adapted by multiple jurisdictions for outdoor smokefree areas, like parks and playgrounds.

Commented [PHLC10]: Our model policy incorporates environmental concerns around smoking, in addition to individual health and curtailing secondhand smoke. This is born out of the waste produced from tobacco product use. Including a provision on tobacco waste reinforces the objective of the ordinance to prohibit smoking and vaping in parks (as an action).

No person shall permit or engage in smoking in any area that is under the control of that person and in which smoking is prohibited by this article or any other law.

- (A) A person that has control of an area in which smoking is prohibited by this chapter shall post a clear, conspicuous, and unambiguous “No Smoking” sign at each entrance to the area, and in at least one other conspicuous point within the area. The signs shall have letters of no less than one inch in height and shall include the international “No Smoking” symbol as well as the “No Vaping”/“No E-Cigarette” symbol. Signs posted on the exterior of buildings to comply with this section shall include the 25-foot distance requirement set forth in Sec. [(*3)]. The presence or absence of signs shall not be a defense to a charge of smoking, tobacco, or nicotine use in violation of any other provision of this chapter.
- (B) City staff and volunteers will be notified about the requirements of this chapter through the employee manual.
- (C) City staff will communicate the requirements of this chapter to public event organizers. City staff will also make periodic observations of parks and other City property covered by this chapter to monitor for compliance. Anyone found by City staff to be violating this chapter will be reminded of its requirements and asked to comply before being subject to ejection from the property.
- (D) A person that has control of an area in which smoking is prohibited by this chapter shall direct anyone who is smoking in violation of this chapter to extinguish the product being smoked [or stop using the tobacco product]. If they do not stop smoking, the person that has control of the area shall refuse any service and shall immediately ask them to leave the property. If the ejection is from a public event, it shall be for the duration of the public event.
- (E) No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this chapter.
- (F) The Director or their designee shall conduct an ongoing educational program to explain and clarify the purposes and requirements of this chapter, as well as to provide guidance to persons or employers about compliance. Lack of receiving or participating in such education program shall not be a defense to a violation of this chapter.

Commented [PHLC11]: As smoking includes vaping in this proposal, there is not a specific need to include further signage about vaping. However, in establishing this ordinance, the City may consider including such signage to further educate the general public if not otherwise engage in educational outreach to ensure that visitors to Gridley's parks know that smoking includes vaping and both are prohibited.

Commented [PHLC12]: Included as an optional clause; "smoked" as derived from the proposed definitions here would include non-combustible products such as electronic smoking devices. As this may not be intuitive to everyone in the general public, as noted earlier the City may consider an educational outreach program as part of implementing this ordinance.

Sec. [(*6)]. VIOLATIONS AND PENALTIES.

- (A) A first refusal to comply with a request from a City employee, or otherwise the person that has control of an area in which smoking is prohibited, to cease a violation of this chapter may be subject to a written warning. Subsequent refusal shall result in a penalty of [fifty dollar (\$50)] for each refusal. Violations of Sec. [(*6)(e)] may result in such further penalties as considered just and equitable.

Commented [PHLC13]: We were asked, and incorporate here, to include a warning as part of enforcement against violations.

Commented [PHLC14]: This value may be changed as the City considers what figure is more appropriate for them.

Commented [PHLC15]: We insert this language in recognition that Sec. 6(e) envisions the potential for significantly uncivil response to compliance efforts, warranting under such circumstances a penalty exceeding a \$50-per-refusal fine.

(B) A person that has control of an area in which smoking is prohibited by this chapter and that fails to comply with this chapter shall be guilty of an administrative fine punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation.
- (2) A fine not exceeding one hundred and fifty dollars (\$150) for a second violation within one year.
- (3) A fine not exceeding two hundred and fifty dollars (\$250) for each additional violation within one year.

(C) Any violation of this chapter is hereby declared to be a public nuisance.

(D) Any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil code enforcement proceedings, and suits for injunctive relief.

(E) Each instance of smoking in violation of this chapter shall constitute a separate violation.

(F) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

Commented [PHLC16]: The values here may be changed as the City considers what figures are most appropriate. We note that the City imposes penalties of \$100, \$200, and \$500 for first, second, and third+ violations (respectively) of the [indoor smokefree air regulation](#).

Commented [PHLC17]: By expressly declaring that a violation of this ordinance is a public nuisance, this provision allows enforcement of the ordinance by the city or county through the administrative nuisance abatement procedures commonly found in municipal codes. It also facilitates restraining orders, or preliminary or permanent injunctions to stop the nuisance.

SECTION III. STATUTORY CONSTRUCTION & SEVERABILITY.

It is the intent of the City Council of the City of Gridley 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 Gridley declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase independently, even if any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases were declared invalid or unenforceable.

SECTION IV. ENACTMENT

Commented [PHLC18]: The City may want to consider adding enactment language, including the date of effect for the ordinance.

City Council Agenda Item #6
Staff Report

Date: May 16, 2022

To: Mayor and City Council

From: Cliff Wagner, Administrator

Subject: Informational Overview of SB 1383 Requirements and First Reading of Ordinance 837-2022 Adding Chapter 8.05 to Title 8 of the Gridley Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction

X	Regular
	Special
	Closed
	Emergency

Recommendation

Staff recommends the City Council introduce and waive first reading of Ordinance 837-2022 adding Chapter 8.05 to, Title 8 of the Gridley Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction.

Background

Senate Bill (SB) 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste statewide by 50% from its 2014 baseline level by 2020 and 75% by 2025. SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away. The purpose of SB 1383 is to reduce methane and greenhouse gas emissions resulting from landfilled organic waste, and the impact on climate change. The regulations promulgated by CalRecycle to implement SB 1383 (the "SB 1383 Regulations") were finalized in late 2020 and took effect on January 1, 2022. The SB 1383 Regulations require the City to adopt and enforce an ordinance to implement the SB 1383 Regulations (this "SB 1383 Ordinance").

Discussion:

The SB 1383 Ordinance will require all residents and businesses to subscribe to organic waste collection services and source separate organic waste from solid waste and recyclables. The Ordinance requires education and outreach to individuals and businesses who generate waste on how they can properly sort materials for collection, the implementation of an edible food recovery program, inspections to ensure compliance with the SB 1383 Regulations, and enforcement for non-compliance with the SB 1383 Regulations.

Mandatory Subscription to Organic Services

All residents and businesses will be required to subscribe to organic waste collection services beginning January 1, 2022. Commercial businesses and multi-family properties with 5 or more units were already required to subscribe to organic waste services, SB 1383 builds upon Assembly Bill (AB) 1826 (Chapter 727, Statutes of 2014), which required any business generating two (2) or more cubic yards of solid organic waste per week, and multi-family properties with five or more units, to recycle their organic waste. (Under AB 1826, multi-family properties are only required to recycle yard waste.)

Waste Management currently provides solid waste collection services within the City under an exclusive franchise. The SB 1383 Regulations require Waste Management to provide, and all residents and businesses to subscribe to, organic waste collection services. Waste generators must source separate materials in the appropriate color-coded collection container to avoid contaminating the containers and the different waste streams. Waste Management currently provides organic waste collection services to both residents and businesses in the City, so there would be minimal impact to Waste Management's operations to implement this collection requirement.

Waste Management provides solid waste collection services to residential customers, through a three-container service: Trash (Gray Lid), Recycling (Blue Lid), Green and Food Waste (Brown Lid). Waste Management also provides trash, recycling and organics collection services to businesses, and the rates vary depending on the size of the container and the frequency of collection.

Waiver from Certain SB 1383 Requirements Related to Collection

Under the SB 1383 Regulations, a local jurisdiction may qualify for a low population waiver for a waiver from certain organic waste collection requirements if the local jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal Reporting System and has a population less than 7,500. The City of Gridley met both of these requirements and received the low population waiver. Low population waivers are valid for a period up to five years.

The City submitted a low population waiver to CalRecycle for an exemption from some of requirements under the SB 1383 Regulations, specifically Article 3 (relating to organic collection services) of Chapter 12 of Title 14 of the California Code of Regulations. Since Waste Management already provides organic waste collection services to residential and commercial businesses, this Ordinance requires residents and businesses to assist the City in meeting state organic waste diversion goals by subscribing to organic waste collection service. The benefit of the City applying for a low population waiver is that it would waive certain requirements related to collection that the City would otherwise have to satisfy beginning January 1, 2022. These requirements include: recordkeeping requirements, certain monitoring requirements to ensure container contamination minimization, and container color and label requirements that identify what materials may be placed in each container.

City-Issued Waivers From Organics Waste Collection and Recycling

The City must review requests from businesses and/or multi-family buildings for waivers from organic waste collection and recycling requirements, and grant waivers when criteria are met. The City can issue a:

- de minimus waiver to a business if the business does generate a low volume of combined solid waste, recyclables, and organic waste and little organic waste or recyclables;
- physical space waiver if there are physical limitations for collection containers at a place of business or a multi-family property with 5 or more units; and,
- any additional waivers allowed under the law.

Education and Outreach Requirements

- Businesses and multi-family buildings must acquire and supply an adequate number of labeled, color-specific containers for employees, contractors, tenants, and customers, and educate employees and tenants about proper sorting.
- The education and outreach period is from January 1, 2022, through December 31, 2023, and educational materials must be provided to generators who do not comply with the requirements.

Edible Food Recovery Program

- The City must develop and implement an edible food recovery program that recovers edible food from commercial edible food generators for human consumption.
- Commercial edible food generators must enter into written agreements with food recovery organizations and services, and the entities must keep specified records.
- Under the SB 1383 Regulations, if the county identifies that new or expanded capacity is required to recover edible food currently disposed of by commercial edible food generators in the county and the local jurisdictions within the county, then each jurisdiction that lacks capacity must submit an implementation schedule to CalRecycle regarding how it will ensure new or expanded capacity. The implementation schedule must include timelines of planning efforts to access new capacity, including, but not limited to, obtaining funding for edible food recovery infrastructure, and identification of facilities, operations and activities within the county that could be used for additional capacity.
- The City and Butte County are coordinating their efforts to develop an edible food recovery program and address capacity planning for edible food recovery to comply with the requirements of the SB 1383 Regulations.
- Discussions regarding the development of edible food recovery capacity are on-going with Butte County, the Cities of Biggs, Oroville, Chico and the Town of Paradise. Staff continues to communicate with the County regarding the SB 1383 Edible Food Recovery requirements.

Inspection and Enforcement

- The City must inspect and enforce the requirements in the Ordinance. The penalties for violations are consistent with the City's penalties for other ordinance violations.
- The City must provide educational materials, issue notice of violations, and issue administrative citations for violations of the Ordinance as specified.
- The focus will be on education and outreach in 2022 and 2023. Penalties for non-compliance will be imposed after January 1, 2024.
- While the City may designate a public or private entity to fulfill some of its SB 1383 regulatory responsibilities by agreement, the City itself remains responsible for its SB 1383 compliance and enforcing other entities' compliance with the SB 1383 regulations through the Ordinance. Under the SB 1383 Regulations, the City is also not allowed to delegate the authority to impose civil penalties for any violation of the Ordinance, or to issue waivers, to a private entity.

Other SB 1383 Requirements

- The SB 1383 Regulations require the City to adopt enforceable requirements to comply with specified provisions of the California Green Building Standards Code (CALGreen) and the State Model Water Efficient Landscape Ordinance, unless they already have such an enforceable mechanism in place.
- The City must procure recycled content paper in accordance with existing state laws, and procure recovered organic waste products (i.e., compost, mulch, electricity generated from biomass conversion, and renewable natural gas) at levels prescribed by the state annually. Staff is currently reviewing options on how to satisfy these requirements. Staff will bring forward a separate procurement policy at a future Council meeting.

SB 619

Under the SB 1383 Regulations, local jurisdictions that do not adopt enforceable mechanism by January 1, 2022 to implement the SB 1383 Regulations locally are subject to penalties issued by CalRecycle. On October 5, 2021, the Governor signed SB 619 to provide some relief from penalties for jurisdictions that may not be fully compliant with SB 1383 requirements by the January 1, 2022, deadline.

Fiscal Impact

Unknown costs related to implementation and enforcement of the Ordinance, which will depend on whether the City or Waste Management will perform some of the City's responsibilities under the SB 1383 Regulations. Residential customers who subscribe to organic waste collection services for the first time will directly pay Waste Management for services. Unknown costs related to providing capacity for the edible food recovery program under a regional cost sharing plan.

Attachment

Ordinance 837-2022

**ORDINANCE ADDING CHAPTER 8.05, ORGANIC WASTE DISPOSAL REDUCTION SECTION TO
TITLE 8, HEALTH AND SAFETY, OF THE GRIDLEY MUNICIPAL CODE (Citywide)**

WHEREAS, Senate Bill (SB) 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste statewide by 50% from its 2014 baseline level by 2020 and 75% by 2025; and,

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away. The purpose of SB 1383 is to reduce methane and greenhouse gas emissions resulting from landfilled organic waste, and the impact on climate change.

WHEREAS, the State of California now requires the City to adopt and enforce an ordinance to implement the SB 1383 Regulations (this "SB 1383 Ordinance").

WHEREAS, the City Council of the City of Gridley duly introduced the ordinance on May 16, 2022 by reading of title only; and,

WHEREAS, the City Council of the City of Gridley ordains as follows:

SECTION 1: Add Chapter 8.05, Organic Waste Disposal Reduction as follows:

CHAPTER 8.05 ORGANIC WASTE DISPOSAL REDUCTION

8.05.020 Purpose and Findings.

8.05.020 Definitions.

8.05.030 Requirements for Single-Family Generators.

8.05.040 Requirements for Commercial Businesses.

8.05.050 Waivers for Generators.

8.05.060 Requirements for Commercial Edible Food Generators.

8.05.070 Requirements for Food Recovery Organizations and Services.

8.05.080 Requirements for Haulers and Facility Operators.

8.05.090 Self-Hauler Requirements.

8.05.100 Inspections and Investigations.

8.05.110 Enforcement.

8.05.010 Purpose and Findings.

The City of Gridley finds and declares:

1. SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, places requirements on multiple entities including Jurisdictions, residential households, Commercial Businesses and business owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of Statewide Organic Waste disposal reduction targets.

2. The Final Regulation Text of the SB 1383 Regulations implementing SB 1383 was adopted by CalRecycle on November 3, 2020.
3. The SB 1383 Regulations require Jurisdictions to adopt and enforce an ordinance or enforceable mechanisms to mandate that organic waste generators, haulers, and other entities subject to the requirements of this chapter that are subject to the jurisdiction's authority comply with relevant provisions of 14 CCR, Division 7, Chapter 12.
4. This ordinance is intended to authorize the City Administrator to make determinations and undertake or arrange for programs and activities required to implement relevant provisions of the SB 1383 Regulations.
5. Nothing in this Ordinance is intended to nor shall it be interpreted or construed as violating 14 CCR Sections 18990.1(b) or 18990.2.

8.05.020 Definitions.

The following terms are defined for the purposes of this chapter:

"Blue Container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Waste.

"CCR" means the State of California Code of Regulations.

"CalRecycle" means the California Department of Resources Recycling and Recovery.

"City" means the City of Gridley, California.

"Collect" or "Collection" means the act of collecting Solid Waste, Recyclables, or Organic Waste at or near the place of generation or accumulation.

"Commercial" or "Commercial Business" means a business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more.

"Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

"Compliance Review" means a review of records by the City to determine compliance with this chapter.

"Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclables, or Organic Waste for collection service.

"Container Contamination" or "Contaminated Container" means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

"Designated Source Separated Organic Waste Facility" shall have the same definition as 14 CCR § 18982(14.5).

"Designee" means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

"Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). "Edible Food" is not Solid Waste if it is recovered and not discarded.

"Enforcement Action" means an action of the City to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Enforcement Officer" means the City Administrator, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or wholly responsible for enforcing this chapter.

"Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR § 18982(a)(24).

"Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR § 18982(a)(25), including, but not limited to:

1. A food bank as defined in Health and Safety Code Section 113783;
2. A nonprofit charitable organization as defined in Health and Safety Code Section 113841; and,
3. A nonprofit charitable temporary food facility as defined in Health and Safety Code Section 113842.

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR § 18982(a)(26).

"Food Waste" means discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. "Food waste" includes compostable plastics and is a subset of Organic Waste.

"Generator" means a person or entity that is responsible for the initial creation of waste.

“Gray Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclables or Organic Waste in the Gray Container as specified in 14 CCR §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

“Green Container” has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

“Green Waste” means tree trimmings, grass cuttings, dead plants, leaves, branches, and similar materials generated through landscaping activities other than construction activities.

activities. “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR § 18982(a)(30).

“Hauler Route” means the designated itinerary or sequence of stops for each segment of the City’s collection service area, or as otherwise defined in 14 CCR § 18982(a)(31.5).

“High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR § 17402(a)(11.5), or, as otherwise defined in 14 CCR § 18982(a)(33).

“Inspection” means a site visit where the City reviews records, Containers, and a person or entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR § 18982(a)(35).

“Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

“Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater,

or other public attraction facility. A site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

“Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR § 18982(a)(40).

“Mixed Waste Organic Collection Stream” or “Mixed Waste” means Organic Waste collected in a Container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Notice of Violation” or “NOV” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR § 18982(a)(45) or further explained in 14 CCR § 18995.4.

“Organic waste” means solid wastes containing material originated from living organisms and their metabolic waste products including, but not limited to, food, green material, landscape and pruning waste, organic textiles and carpets, untreated lumber, untreated wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR § 18982(a)(48).

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City’s Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any Container.

“Recovery” means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).

“Recyclable Material” means materials source-separated by the generator for the purpose of sorting, processing and being returned to the economic mainstream for use the altered form for manufacture of new, reused or reconstituted products through available processes and markets. A listing of materials considered as Recyclable Material shall be provided by the Authorized Collector and may be revised from time to time by agreement of the City, and the Authorized

Collector. Notwithstanding any provision to the contrary, the Authorized Collector is not required to collect or recycle any material for which a commercially viable market is not available.

“Remote Monitoring” means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

“Residential” means any residential dwelling.

“Route Review” means a visual Inspection of Containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

“SB 1383” means Senate Bill 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

“SB 1383 Regulations” means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

“Self-Hauler” means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste he or she has generated to another person. “Self-Hauler” also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 18982(a)(66). “Back-haul” means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator’s own employees and equipment, or as otherwise defined in 14 CCR § 18982(a)(66)(A).

“Single-Family” means of, from, or pertaining to any residential premises with fewer than five (5) units.

“Solid Waste” means and includes all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, Construction and Demolition Debris, and any other discarded solid, semisolid, and liquid waste permitted to be disposed of at a Class III landfill and which are included within the definition of “Nonhazardous Solid Waste” set forth in 27 CCR Section 20220(a).

In addition, for purposes of this Ordinance, Solid Waste does not include source separated Recyclable Material, source separated Organic Waste, construction and demolition debris, manure and/or salvageable materials if such materials have been source separated by the generator for the purpose of recycling, composting, processing or reuse.

“Source Separating” or “Source Separation” means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

“Source Separated Blue Container Waste” means Source Separated Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

“Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Waste, carpets, non-compostable Paper, and textiles.

“Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR § 18982(a)(71).

“Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

“Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

“Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR § 189852(a)(76).

8.05.030 Requirements for Single-Family Generators.

A. Single-Family Organic Waste Generators shall comply with the following requirements:

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.05.030(A)(2). The City shall have the right to review the number and size of a Generator's Containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste through backyard residential composting, and/or using a community composting site.
2. Shall participate in the City's three-Container collection service(s) by placing designated materials in designated Containers, and shall not place Prohibited Container Contaminants in Collection Containers. Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Gray Container, per City and collector guidelines. Generators shall not place materials designated for the Gray container into the Green Container or Blue Container, materials designated for the Green Container into the Blue or Gray Container, nor materials designated for the Blue Container into the Green or Gray Container.

8.05.040 Requirements for Commercial Businesses.

A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

1. Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.05.040(A)(2). The City shall have the right to review the number and size of a Generator's Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.
2. Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container, nor place materials designated for the Green Container or Blue Container into the Gray Container.
3. Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.05.040(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container

collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program.

4. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the Containers provided by the business shall have either:

 - a. A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.
 - b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.
5. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Section 0(A)(4) pursuant to 14 CCR § 18984.9(b).
6. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a Container not designated for those materials in accordance with Section 8.05.040, or if Recycling Organic Waste onsite or self-hauling under Section 8.05.090 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.
7. Excluding Multi-Family Residential Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the

requirements to keep contaminants out of those Containers pursuant to 14 CCR § 18984.9(b)(3).

8. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
9. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.
10. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.05.100 to confirm compliance with the requirements of this chapter.
11. Accommodate and cooperate with City's Remote Monitoring program, if implemented, for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Sections 8.05.30 and 8.05.40. The Remote Monitoring program may involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.
12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Section 8.05.090.
13. Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site).
14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.05.060.

8.05.050 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.05.050(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.05.050(A)(2) below.

2. Provide documentation that either:
 - a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or
 - b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.
3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
4. Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
3. Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

8.05.060 Requirements for Commercial Edible Food Generators.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

1. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.
3. Keep records that include the following information, or as otherwise specified in 14 CCR § 18991.4:
 - a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 18991.3(b).
 - b. A copy of all contracts or written agreements established under 14 CCR § 18991.3(b).
 - c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:
 - i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - iii. The established frequency that food will be collected or self-hauled.
 - iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

- d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 285, Statutes of 2017.

8.05.070 Requirements for Food Recovery Organizations and Services.

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.
2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.
2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract or written agreement with pursuant to 14 CCR § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.05.080 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.
 - a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.
 - b. Transport Source Separated Recyclable Materials or Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.
 - c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition debris.
2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

2. Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.05.090 Self-Hauler Requirements.

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.
2. The amount of material in cubic yards or tons transported by the Generator to each entity.
3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste..

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.05.090(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 8.05.090(C) or report information in Section 8.05.090(D).

8.05.090 Inspections and Investigations.

A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings),

property owners, Commercial Edible Food Generators, Self-Haulers, Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the purposes of inspecting Commercial Business Containers for compliance with Section 8.05.040, the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with Remote Monitoring pursuant to Section 8.05.040.

B. The regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.05.110.

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.05.110 Enforcement.

A. The City may take Enforcement Actions, including the issuance of an administrative citation and assessment of a fine, against persons and entities for violating this chapter. The procedures in Chapter 19.10 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. The City may take immediate Enforcement Actions against Commercial Businesses that are in violation of the commercial organic waste and recycling requirements of AB 341 and AB 1826, which were in place prior to the issuance of the SB 1383 Regulations.

C. Education of SB 1383 Requirements.

1. Through December 31, 2023, the City or its Designee may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance

with the SB 1383 Regulations and this chapter, and if City or its Designee determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of Edible Food Recovery, training to the entity describing its obligations under this chapter and a notice that compliance is required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

2. The City Administrator or his or her designee shall work with the Collector and other entities to conduct outreach and educate Generators regarding compliance with the SB 1383 Regulations and this chapter.
3. The City Administrator or his or her designee shall work with the Collector to annually identify residences and Commercial Businesses subject to the SB 1383 Regulations.

D. Beginning January 1, 2024, if the City or its Designee determines that an Organic Waste Generator, Self-Hauler, Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with the SB 1383 Regulations under this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

E. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the “owner” at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. The notice shall state the person, business, or entity has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for Enforcement Action and penalties.

F. The City or its Designee may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

2. Delays in obtaining discretionary permits or other government agency approvals; or,
3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR § 18996.2 due to those deficiencies.

G. For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants. Notwithstanding the foregoing subsections, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required.

H. Penalty Amounts for Types of Violations.

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be \$100 per violation.
2. For a second violation, the amount of the base penalty shall be \$200 per violation.
3. For a third or subsequent violation, the amount of the base penalty shall be \$500 per violation.
4. The penalties shall be consistent with Government Code section 36900.

I. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 1.09.

J. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

SECTION 2: This ordinance shall be effective (30) days from the date of the second reading of the ordinance.

I HEREBY CERTIFY that the foregoing text amendments to Title 8 were introduced, by reading of title only, at a regular meeting of the City Council of the City of Gridley, California, held on the 16th day of May 2022, and the second reading and adoption by reading of title only at the regular City Council meeting of the City of Gridley held on the 6th day of June 2022, by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ATTEST:

APPROVE:

Cliff Wagner, City Administrator

Bruce Johnson, Mayor

APPROVED AS TO FORM:

Anthony Galyean, City Attorney

Item #7

Discuss the Use of Business Pole Signs