ORDINANCE NO. 1634

AN ORDINANCE ADOPTING CHAPTER 8.110 OF YUBA COUNTY ORDINANCE CODE RELATING TO YUBA COUNTY FEATHER RIVER LEVEE SETBACK AREA

The following ordinance consisting of three (3) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Yuba, State of California, at a regular meeting of the Board of Supervisors held on 9 day of July, 2024, by the following vote:

AYES: Supervisors Vasquez, Bradford, Messick

NOES: Supervisor Fuhrer

ABSENT: Supervisor Blaser

ABSTAIN: None

~~DON BLASER~~ Seth Fuhrer
Vice Chairman of the Board of Supervisors
of the County of Yuba, State of California

ATTEST: MARY PASILLAS
Clerk of the Board of Supervisors

By: Mary Pasillas

JANET BENDER
YUBA COUNTY COUNSEL
APPROVED AS TO FORM:

By:

THE BOARD OF SUPERVISORS OF THE COUNTY OF YUBA, STATE OF CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of Yuba, State of California.

Section 2. Chapter 8.110 of Title VIII of the Yuba County Ordinance Code is hereby enacted to read as follows:

8.110.010. Purpose

The purpose of this chapter is to protect property, persons, wildlife, environment, and the public health and welfare of those individuals and entities within the Yuba County Feather River Levee Setback Area. Where this Chapter provides for the exercise of authority regarding the approval or amendment of agreements, rules or regulations governing the use of any lands within the Yuba County Feather River Levee Setback Area, the authority therefore shall be vested in the Yuba County Board of Supervisors for lands under the control of the County, and in the respective governing body of the public entity for lands under their control.

8.110.020. Scope

This Chapter shall apply to any lands whose boundaries fully or partially lie within the Yuba County Feather River Levee Setback Area, as depicted on the Yuba County Feather River Levee Setback Area Map that is attached hereto as Exhibit A and incorporated by reference. This Chapter shall not apply to Star Bend Boat Launch and Day Use Area as defined in Chapter 8.77 of the Yuba County Ordinance Code.

8.110.030. Definitions

When used in this Chapter the following terms shall have the following meaning. Where specific terms are defined in the California Vehicle Code ("CVC"), the term shall have the same meaning as defined in the CVC, which are incorporated herein and made a part hereof by this reference.

(1) *"Camp" or "camping"* means using property for living accommodation purposes, as evidenced by: (a) remaining for prolonged or repetitious periods of time with one's personal possessions or belongings (including but not limited to clothing, tents, sleeping bags, bedrolls, blankets, sheets, pillows, luggage, backpacks, kitchen utensils, cookware, and cooking equipment); and (b) engaging in one or more of the following: sleeping, storing personal possessions or belongings, making a fire outside of a designated fire pit, or cooking meals. The combined activities of (a) and (b) constitute camping when it reasonably appears in light of all the circumstances that a person is using the property as a living accommodation.

(2) "*Camp facilities*" means and includes, but is not limited to, tents, huts, temporary shelters, unpermitted structures and, when used for the purpose of sleeping, vehicles.

(3) *"Electric bicycle"* means a bicycle equipped with fully operable pedals and an electric motor of less than 750 watts and categorized as either 1, 2, or 3 (ref. CVC 312.5)

a. *"Class 1 electric bicycle," or "low-speed pedal-assisted electric bicycle,"* is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

b. *"Class 2 electric bicycle," or "low-speed throttle-assisted electric bicycle,"* is a bicycle equipped with a motor that may be used exclusively to propel the bicycle, and that is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

c. *"Class 3 electric bicycle," or "speed pedal-assisted electric bicycle,"* is a bicycle equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour and equipped with a speedometer.

(4) *"Motorized conveyance"* means any device that is propelled or may be moved or drawn upon a highway using an electric motor or internal combustion engine or other means other than human power, including but not limited to: motorcycles, motor-driven cycles, motor trucks, motor scooters, trail bikes, golf carts, and vehicles, including trailers and house cars as defined in the Vehicle Code.

(5) *"Non-Motorized conveyance"* means horses, ponies, mules, burros, or any other equine animal. It also means bicycles or similar devices that are wheeled, operator-propelled equipment which transports the operator on land, except all wheelchairs, to include but not limited to unicycles, bicycles, tricycles, carts, skateboards and scooters.

(6) *"Off-road vehicles"* means all-terrain vehicles (ATVs), utility task vehicles (UTVs), sandrails, dune buggies, motorcycles, and includes but is not limited to any other motor-powered conveyance operated off public or private roads.

(7) "*Park" or "parked*" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers (ref CVC section 463).

(8) *"Personal property"* means all tangible property, including, but is not limited to, items, goods, materials, camp facilities, camp paraphernalia, merchandise, furniture, equipment, fixtures, structures, clothing, and household items.

(9) *"Stop" or "stopped"* means any cessation of movement of a vehicle, whether occupied or not (ref. CVC section 587)

(10) *"Vehicle"* means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks (ref. CVC section 670)

(11) *"Yuba County Feather River Levee Setback Area"* means all areas as defined on the Yuba County Feather River Levee Setback Area Map attached as Exhibit A, which

include parcels owned by the County of Yuba, the Three Rivers Levee Improvement Authority (TRLIA), special districts, agencies, and legal public or private entities.

8.110.040. Public Access

For lands within the Yuba County Feather River Levee Setback Area that are owned or are under control of the Three Rivers Levee Improvement Authority, State of California, or other public agency, the entity in control of the land will be responsible for determining public access and use on their lands, if any. If public access is allowed, the entity will determine the manner in which the public may access the lands including locations, routes, times, and uses consistent with this Ordinance. Any public access granted by the entities identified in this Section shall exclude the use of off-road vehicles as use of those vehicles is not consistent with the purpose of this Ordinance. Speeds of any motorized conveyance or electric bicycles allowed by the entities identified in this Section shall be limited to no more than 15 miles per hour.

8.110.050. Trespassing

(1) No person shall enter or remain in any portion of the Yuba County Feather River Levee Setback Area from 30 minutes after sunset to 30 minutes before sunrise. However, persons may enter the Yuba County Feather River Levee Setback Area prior to 30 minutes before sunrise to be in position to begin hunting at 30 minutes before sunrise where authorized by law.

(2) No person shall enter any portion of the Yuba County Feather River Levee Setback Area that is posted with any sign that states "No Entry", "Keep Out", "No Trespassing", "Area Closed", or when gates are locked, or other prohibition of entry is indicated.

8.110.060. Prohibited Acts

Within the Yuba County Feather River Levee Setback Area, it shall be unlawful and a violation of this Chapter for any person to:

(1) Discharge any firearm, compressed air or gas operated weapon, bow and arrow, crossbow, or other type of projectile device or weapon, except for when used for hunting as authorized by law.

(2) Enter, operate, stop, or park any motorized conveyance or electric bicycles in areas other than those areas marked and designated for such purpose.

(3) Enter, operate, stop, or park any off-road vehicle in the Yuba County Feather River Levee Setback Area.

(4) Camp or occupy any portion of the Yuba County Feather River Levee Setback Area as a campsite, or trailer site.

(5) Carry, use, or throw away any lit cigarette, cigar, ashes, or any other flaming or glowing substance within the Yuba County Feather River Levee Setback Area.

(6) Start, kindle or maintain an open fire.

(7) Dump or dispose of any refuse, litter, place or store any personal property.

(8) Break, cut, carve, deface, injure, mutilate, transplant, remove or otherwise damage or kill any animal, grass, turf, plant, tree, shrub, flower, wood, dirt, mulch, sand, or rock. The prohibition of killing an animal does not apply in the course of hunting as authorized by law.
(9) Mark, graffiti, deface, disfigure, injure, tamper with, displace, dig, remove, destroy, alter, or obliterate any property of any kind.

8.110.070. Exceptions

This chapter shall not apply to the following:

(1) Vehicles and equipment operated by, or under the direction and supervision of, various special districts, public agencies, TRLIA, County of Yuba, State of California, or the United States of America.
(2) Travel by authorized emergency vehicles as defined by Section 165 of the California Vehicle Code.
(3) Agricultural equipment, agricultural vehicles and agricultural activities that are under the control and supervision of the property owner, or agent of the owner of agricultural land where that agricultural land is adjacent to or has boundaries that fully or partially lie within the Yuba County Feather River Levee Setback Area. Such vehicles and activities shall have written permission from the County of Yuba and must be presented when requested to those authorized to enforce this Chapter. Notwithstanding the foregoing, the County shall have authority to prohibit agricultural burning at any time if the danger of wildfire becomes elevated as determined in the County's sole discretion.
(4) Other exceptions in whole or in part to this Chapter may be authorized by the County of Yuba by execution of a written agreement signed by authorized personnel.

8.110.080. Removal of Vehicle & Personal Property

(1) The County shall have authority to remove parked or stopped motorized conveyances from within the Yuba County Feather River Levee Setback Area that pose as a health or safety hazard, are located outside designated areas, or are otherwise in violation of the Yuba County Ordinance Code or California Vehicle Code. The owner of such conveyance shall be responsible for payment of any costs of removal including, towing, storage, and release fees. No liability for damages in removing such conveyances will be assumed by the County of Yuba or any of its officers or employees.
(2) The County shall have the authority to immediately abate and remove any abandoned, wrecked, dismantled, stolen or inoperative motor vehicle or vehicle parts pursuant to the provisions contained in Chapter 7.35 of the Yuba County Ordinance Code.
(3) The County shall have the authority to remove any personal property, refuse or other items that are located within the Yuba County Feather River Levee Setback Area. Personal property associated with unpermitted camping shall be removed pursuant to provisions contained in Chapter 7.55 of the Yuba County Ordinance Code. Illegally dumped refuse, debris or other items may be immediately removed and disposed of.

8.110.090. Enforcement

(1) The provisions of this Chapter shall be administered and enforced by the Sheriff of Yuba County.
(2) The Director of the County Department that has been assigned responsibility for administration of Code Enforcement services is hereby authorized to enforce this Chapter.
(3) Any duly appointed peace officer of the State of California is authorized to enforce the provisions of this Chapter.

8.110.100. Violations

It is unlawful for any person to violate any provision of this Chapter. Any person violating any provision of this Chapter shall be guilty of misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter, is committed, continued, or permitted.

8.110.110. Penalties

Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be guilty of a misdemeanor punishable by fine of not more than $1,000.00 per offense, imprisonment in the County Jail for not more than six months or both.

8.110.120. Non-exclusivity

The provisions of this Chapter are to be supplementary to all of the provisions of the Yuba County Ordinance Code, applicable State law and any law cognizable at common law or in equity. Nothing herein shall be read, interpreted, or construed in any manner so as to limit any existing right or power of the County of Yuba or any other governmental entity to enforce County ordinances, to abate any and all nuisances, or employ any remedy available at law or equity.

8.110.130. Severability

If any section, subsection, sentence, clause, phrase, provision or portion of this Chapter, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Chapter or their applicability to distinguishable situations or circumstances. In enacting this Chapter, it is the desire of the Board of Supervisors to validly regulate to the full measure of its legal authority in the public interest, and to that end, the Board of Supervisors declares that it would have adopted this Chapter and each section, subsection, sentence, clause, phrase, provision, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, provision, or portions thereof might be declared invalid or unconstitutional in whole or in part, as applied to any particular situation or circumstances, and to this end the provisions of this Chapter are intended to be severable.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

EXHIBIT 'A'

YUBA COUNTY FEATHER RIVER LEVEE SETBACK AREA MAP

