

ORDINANCE NO. 1839

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE, ADDING CHAPTER 5.06 TO THE OROVILLE MUNICIPAL CODE ESTABLISHING THE DOWNTOWN OROVILLE BUSINESS IMPROVEMENT DISTRICT.

RECITALS

WHEREAS, on February 19, 2019, the City Council of OROVILLE, on behalf of the City of OROVILLE, (the "City"), adopted a Resolution of Intent (the "Resolution"), declaring its intention to establish a Parking and Business Improvement District (hereinafter referred to as the "District"), to levy a benefit assessment on all businesses, trades, professions, and vendors within said District, the proceeds of which shall be used for the public purposes herein described to benefit the businesses in the District, pursuant to the Parking and Business Improvement Area Law of 1989, Part 6 (commencing with Section 36500) of Division 18 of the California Streets and Highways Code (the "Act"); and,

WHEREAS, pursuant to the Act and the Resolution, City conducted a public hearing, after having given due notice thereof as required by law, on March 19, 2019, at Council Chambers at City Hall, located at 1735 Montgomery Street, Oroville, CA 95965; and,

WHEREAS, said public hearing has been held and the City Council has heard and considered all oral and written protests and other comments regarding such proposed actions; and,

WHEREAS, protests in writing from businesses in the proposed District paying 50% or more of the proposed assessment have not been received by April 9, 2019; and,

WHEREAS, this City Council has now determined to establish the proposed District as a Parking and Business Improvement Area, to provide for the imposition of a benefit assessment and to adopt an ordinance to such effect; and,

WHEREAS, in the opinion of this City Council, the businesses within the District will be benefited by the expenditure of the funds raised by the assessments levied hereby in the manner prescribed herein; and,

WHEREAS, this City Council may, for each of the purposes set forth in Section 36510 & 36513 of the Act, establish one or more separate benefit zones based upon the degree of benefit derived from the formation of the District, and may impose a tiered assessment or charge within each of the benefit zones; and,

WHEREAS, all provisions of the Act applicable to the establishment, modification, or disestablishment of a District shall apply to the establishment, modification, or disestablishment of benefit zones pursuant to the Act, and the establishment or the modification of any benefit zone shall follow the same procedure as provided for under the establishment of a Parking and Business

Improvement District; and the disestablishment of a benefit zone shall follow the same procedure as provide for disestablishment of a District; and,

WHEREAS, upon the request of the District Board of Directors, this City Council shall commence the proceedings required by law to amend the boundaries, assessments or charges established pursuant to this Ordinance subject to approval of the Board of Directors of the District as expressly provided for herein; said modifications being made pursuant to the procedural requirements of the Act, but no assessment or charge shall be modified which would impair the ability of the District to meet the obligations of a contract to construct or operate physical improvements or to market or conduct events in the District; and,

WHEREAS, adjustments may be made in the assessments or charges to businesses in the District, or in the uses to which the revenue shall be put, as specified in this Ordinance and subject to Board approval, provided such changes are approved by the District Board of Directors and are made by a supplemental Ordinance adopted after a hearing before the City Council; and,

WHEREAS, for purposes of the assessments or charges to be imposed pursuant to this Ordinance, this City Council may make a reasonable classification of businesses, giving consideration to various factors, including general benefit to businesses and the degree of benefit received from District programs; and,

WHEREAS, the assessments or charges levied on businesses pursuant to this Ordinance shall, to the maximum extent feasible, be levied on the basis of the estimated benefit to the businesses within the District.

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

SECTION 1. CHAPTER 5.06 is hereby added to the OROVILLE Municipal Code to read as follows:

CHAPTER 5.06 – DOWNTOWN OROVILLE BUSINESS IMPROVEMENT DISTRICT.

Sections:

- 5.06.010 Definitions
- 5.06.020 Establishment of Boundaries
- 5.06.030 Establishment of District Board of Directors
- 5.06.040 Establishment of Benefit Assessment
- 5.06.050 Purpose and Use of Benefit Assessments
- 5.06.060 Exclusions From Benefit Assessment
- 5.06.070 New Business Assessment Waiver
- 5.06.080 Collection of Benefit Assessment
- 5.06.090 Voluntary Contributions To District
- 5.06.100 Annual Budget Process
- 5.06.110 Decisions Regarding Expenditure of Funds
- 5.06.120 District Proceeds Do Not Offset City Services

5.06.010 Definitions. To distinguish between District businesses and for the purpose of calculating and applying the amount of assessments owed, the following definitions shall apply:

(a) **Retail Businesses:** "Retail Businesses" include all businesses not covered by other definitions set out in this section, at least fifty percent (50%) of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales other than retail sales does not exclude said business from this classification so long as such other business component does not account for more than fifty percent (50%) of said business' gross income;

(b) **Restaurants:** "Restaurant" businesses include cafes, eating establishments, sandwich shops, dinner houses, restaurants and fast food services and other similar businesses;

(c) **Sales and Service:** "Sales and Service" businesses include businesses that combine retail and product services. Examples are appliance stores, most automotive-oriented businesses, repair shops, repairing and servicing businesses and service stations. Other businesses of a general service-type nature such as personal care salons, lodging, general office, news and advertising media, printers, renting and leasing businesses, utilities, vending machine businesses, household finance companies, entertainment businesses and other similar businesses not otherwise included in categories a, b, d, or e are included in this section;

(d) **Professional:** "Professional" includes attorneys, architects, accountants, engineers, surveyors, physicians, dentists, optometrists, chiropractors and others in a medical / health service field, consultants, real estate brokers, financial advisors, laboratories (including dental and optical), hearing aid services, artists, photographers and designers.

(e) **Financial:** Banks, savings & loans, credit unions, etc.

(f) **Fiscal Year:** "Fiscal Year" means July 1st to and including June 30th of the following calendar year.

(g) **Billing Period:** "Billing Period" shall refer to the fiscal year, commencing July 1 of the initial year and each and every year thereafter unless disestablished per Section 1 paragraph 14.0 of this Ordinance.

5.06.020 Establishment of Boundaries. A Parking and Business Improvement District is hereby established pursuant to the Parking and Business Improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. The boundaries of the District and the benefit zones within the District shall be as set forth on Exhibit "A", attached hereto and incorporated herein by reference. This District shall be known as the "**Downtown Oroville Business Improvement District,**" (the "**District**").

5.06.030 Establishment of District Board of Directors. There shall be a Board of Directors ("Board") of the District to administer the affairs of the District. Said Board shall be constituted of businesses within the District. Within the Board there shall be a President, Vice-President, Secretary and Treasurer elected by the membership, and such other officers as deemed necessary by the Board. Such other officers shall be appointed by the Board of Directors at their discretion. All voting within the District regarding election of Board Members and any actions regarding the normal and routine conducting of District Business shall be based on one (1) vote per assessed dollar, and said business must be current in payment of their District assessment(s) to participate in such votes.

5.06.040 Establishment of Benefit Assessment. All businesses, trades, and professionals located within the District shall, commencing July 1, 2019, pay a annual benefit assessment to the District in the following amounts:

<u>Zones of Benefit:</u>	<u>Zone A</u>	<u>Zone B</u>
Retailers and restaurants	(Small) \$250	\$150
	(Large) \$350	\$150
Service Businesses	\$200	\$100
Professional Businesses	\$200	\$100
Financial	\$500	\$500

- A) The average benefit assessment is \$196.37 per year
- B) Zones of benefit are determined by the Map in Exhibit A of the Resolution of Intent.
- C) Size category is determined by number of full-time employees as follows:
- Small is 1-3 full-time employees including Owner
 - Large is 4 or more full-time employees including Owner.
- D) Business type definitions are as follows:
- **Retail and Restaurant:** Businesses that buy and resell goods, examples are clothing stores, shoe stores, office supplies as well as businesses that sell prepared foods.
 - **Service Businesses:** Businesses that sell services. Examples are beauty and barber shops, repair shops, most automotive-oriented businesses, lodging businesses, entertainment businesses such as theaters, etc.
 - **Professional Businesses:** Includes Architects, Engineers, Attorneys, Dentists,

Doctors, Accountants, Optometrists, Realtors, Insurance Offices, Mortgage Brokers and most other businesses that require advanced and/or specialized licenses and/or advanced academic degrees.

- **Financial Institutions:** Includes banking and savings and loan institutions as well as credit unions, etc.

5.06.050 Purpose and Use of Benefit Assessments. The types of improvements and activities proposed to be funded by the levy of assessments on businesses in the District are to be determined by the Board of Directors of the ODBA, but initially 40% to Civic Beautification and Signage Programs and 60% to Commercial Marketing and Special Events, generally as follows:

a. The acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:

- (1) Benches;
- (2) Trash receptacles;
- (3) Decorations;
- (4) Facade improvements;
- (5) Permanent landscaping

b. Activities including but not limited to the following:

- (1) promotion of public events which benefit businesses in the area and which take place on or in public places within the area;
- (2) Furnishing of music in any public place in the area;
- (3) Any other activities which benefit businesses located and operating in the area, including but not limited to downtown markets, commercial marketing, advertising and promotional programs.

5.06.060 Exclusions From Benefit Assessment. No person or business within the District shall be required to pay an assessment based on: (a) a residential use of the property within the District, or (b) a non-profit organization as defined by Section 501 (C) (3) or (C) (6) of the Internal Revenue Service Code.

5.06.070 New Business Assessment Waiver. Any new business established within the District shall not be required to pay an assessment for the Billing Period during which said business is initiated. The business will have been considered initiated on the date of issuance of the business license. This waiver shall not apply to an existing business that has changed ownership or location within the District. City agrees to supply the District with timely information regarding new businesses initiated within the District.

5.06.080 Collection of Benefit Assessment. The benefit assessment authorized by Section 5.06.040 for Oroville businesses shall be billed each calendar year on January 1, and collected on July 1. The City will bill and collect the assessments, at no charge to the District and forward all funds collected to the District within 30 days of collection.

5.06.090 Voluntary Contributions To District. Contributions to the District shall be permitted on a voluntary basis. The boundary of the District shall not be modified as a result of the contribution. Said contributing business may be considered a member of the District for voting or other purposes upon approval by the board of directors. However, said business making a voluntary contribution may be entitled to participate in the programs of the District upon a finding by the Board of Directors that the District derives a benefit from said business' participation in the program.

5.06.100 Annual Budget Process. Pursuant to the Act, it shall be necessary for the District Board of Directors to present an annual budget for City Council review and approval prior to the beginning of each Fiscal Year. The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit assessments for the following Fiscal Year. City shall not adopt, modify or otherwise amend any Fiscal Year budget of the District that is inconsistent in any way with said Fiscal Year's budget as agreed to and presented by the District Board of Directors except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay 50% or more of the assessments proposed to be levied as to any specific budget item pursuant to GC Section 36525 (b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify said expenditure from the District's proposed budget pursuant to the written protest.

5.06.110 Decisions Regarding Expenditure of Funds. As provided for within the guidelines of Streets and Highways Code Section 36500 et seq. (SB 1424 - Parking & Business Improvement Law of 1989, Chapter 2), decisions of the District Board of Directors regarding expenditure of all funds generated under this program shall be final.

5.06.120 District Proceeds Do Not Offset City Services. City specifically finds and declares that the funds derived from the District shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The City declares its intent to provide at least the same level and standard of maintenance and repair of public property within the District providing City funds are available from year to year.

5.06.130 Disestablishment of the District. Proceeding to disestablish the District shall be initiated by the City Council following the presentation of a petition to the City Council signed by business owners paying 50% or more of the assessments levied in the District. Proceedings to disestablish the District shall follow the procedures set forth in GC Section 36550. The City Council shall disestablish the District if, following the public hearing prescribed in Section 36550 (b), written protests are not withdrawn as to reduce the protests below the 50% level. In the event of disestablishment of the District, remaining revenues of the District shall be refunded to paying business owners in a pro-rata manner calculated in the same manner as was used to establish the most recent assessments applied in the District.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance, it being expressly declared that this ordinance and each section, subsection, clause and phrase hereof would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall attest to the adoption of this Ordinance and cause same to be published in the manner required by the City Charter.

This Ordinance shall take effect on the 30th day after its adoption.

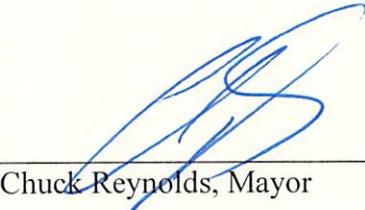
PASSED AND ADOPTED by the Oroville City Council at an regular meeting held on this 7th day of May, 2019, by the following vote:

AYES: Hatley, Thomson, Pittman, Goodson, Smith, Draper, Reynolds

NOES: None

ABSTAIN: None

ABSENT: None



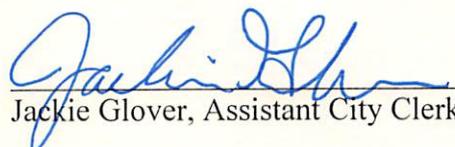
Chuck Reynolds, Mayor

APPROVED AS TO FORM:

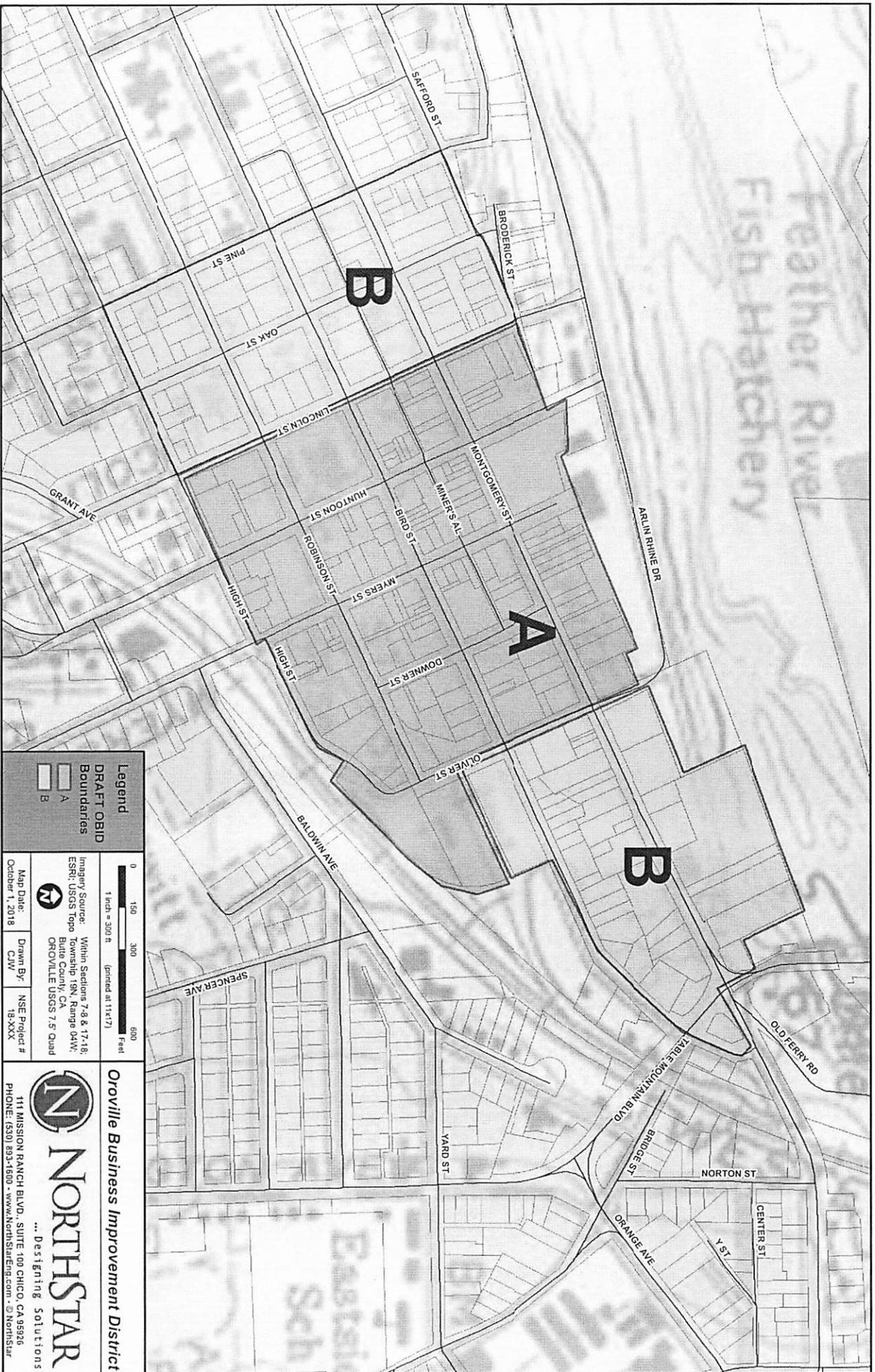
ATTEST:



Scott E. Huber, City Attorney



Jackie Glover, Assistant City Clerk



Legend
DRAFT OBID
Boundaries

A
 B

0 150 300 600
 Feet

1 inch = 300 ft (printed at 11x17)

Map Date: October 1, 2018

Drawn By: CJW

NSE Project # 18-XXX

Imagery Source: Within Sections 7, 8, & 17-18; ESRI; USGS Topo; Butte County, CA

OROVILLE USGS 7.5 Quad

Oroville Business Improvement District

NORTHSTAR
 ... Designing Solutions

111 MISSION RANCH BLVD., SUITE 100 CHICO, CA 95926
 PHONE: (530) 893-1600 • www.NorthStarEng.com • © NorthStar