



# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

Donald Rust  
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## City of Oroville PLANNING COMMISSION

CHAIR: Damon Robison  
VICE-CHAIR: Carl Durling  
MEMBERS: Adonna Brand; Randy Chapman; Wyatt Jenkins; Michael Britton; Justin McDavitt

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## SPECIAL PLANNING COMMISSION MEETING AGENDA

Thursday, December 14, 2017 at 7:00 p.m.  
MEETING AGENDA

OROVILLE CITY HALL  
1735 MONTGOMERY STREET, OROVILLE, CA 95965  
ALL MEETINGS ARE RECORDED

*This meeting may be broadcast remotely via audio and/or video conference at the following address:  
Cota Cole, LLP, 2261 Lava Ridge Court, Roseville, California 95661.*

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### ADMINISTRATIVE AGENDA

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1. CALL TO ORDER

2. ROLL CALL

Commissioners Adonna Brand, Michael Britton, Randy Chapman, Wyatt Jenkins, Justin McDavitt, Vice Chairperson Carl Durling, Chairperson Damon Robison

3. PLEDGE OF ALLEGIANCE

4. INSTRUCTIONS TO INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

This is the time the Chairperson will remind persons in the audience who wish to address the Commission on a matter that is on the agenda to fill out one of the

cards located in the lobby and hand it to the clerk of the meeting. The Chairperson will also remind persons in the audience that under Government Code Section 54954.3, the time allotted for each presentation may be limited.

5. **PUBLIC COMMENTS**

This is an opportunity for members of the public to address the Planning Commission on any subject relating to the Planning Commission, but not relative to items on the present agenda. The Planning Commission reserves the right to impose a reasonable limit on time afforded to any individual speaker.

6. **CORRESPONDENCE**

Letter from Ann E. Brodsky, Coordinator of Tobacco Use Prevention Education at the Chico Unified School District, in support of prohibiting the sale of menthol cigarettes and other flavored tobacco products.

7. **APPROVAL OF MINUTES**

Approve the minutes of the October 26, 2017 regular Planning Commission meeting.

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**REGULAR AGENDA**

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8. **PUBLIC HEARINGS**

- 8.1 **ZC 17-01: Rezone of 1355 Washington Avenue from MXD to MXC** – The Oroville Planning Commission will review and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from Downtown Mixed Use (MXD) to Corridor Mixed Use (MXC).

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

**Adopt Resolution No. P2017-16:** A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION MAKING FINDINGS AND SENDING A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE REZONE OF 1355 WASHINGTON AVENUE (APN: 031-030-010) FROM DOWNTOWN MIXED USE (MXD) TO CORRIDOR MIXED USE (MXC)

- 8.2 **ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products** - The Oroville Planning Commission will conduct a public hearing to consider sending a recommendation to the Oroville City Council to prohibit the sale of menthol cigarettes and other flavored tobacco products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

**Adopt Resolution No. P2017-18:** A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND ORDINANCE NO. 1794 FOR THE PURPOSE OF PROHIBITING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS AND INCREASE THE FEE OF A TOBACCO RETAIL LICENSE

**9. REGULAR BUSINESS**

- 9.1 Feather River Crossing Signage** – The Oroville Planning Commission will review and consider providing staff direction regarding the proposed signage for the repurposing of the commercial property at 355 Oro Dam Boulevard, the previous location of Walmart and future location of Feather River Crossing commercial complex.

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

Provide staff direction.

- 9.2 Prioritization of the Transportation Capital Improvement Program (TCIP) Projects List** – The Oroville Planning Commission will review and prioritize the City's TCIP projects list to forward its recommendations to the City Council.

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

Staff recommends the Planning Commission forward a prioritized list of TCIP projects to the City Council for their review and consideration.

**10. DISCUSSION ITEMS**

- Potential for foot bridge at end of Bridge Street

**11. DIRECTOR'S REPORT**

A verbal report may be given by the Community Development Director.

**12. COMMISSION REPORTS**

Reports by commission members on information they have received and meetings they have attended which would be of interest to the Commission or the public.

13. **ADJOURNMENT**

Adjourn to Thursday, January 25, 2018 at 7:00 P.M. in the Oroville City Council Chambers.

Respectfully submitted by,



Donald Rust, Director  
Community Development Department

**\*\*\* NOTICE \*\*\***

*If requested, this agenda can be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 and the Federal Rules and Regulations adopted in implementation thereof. Persons seeking an alternative format should contact Donald Rust, Director for further information. In addition, a person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting should telephone or otherwise contact Donald Rust, Director as soon as possible and preferably at least 24 hours prior to the meeting. Donald Rust, Director may be reached at 530-538-2433, or at e-mail [rustdl@cityoforoville.org](mailto:rustdl@cityoforoville.org), or at the following address: City of Oroville Planning and Development Services Department, 1735 Montgomery Street, Oroville, CA 95965.*

**\*\*\* NOTICE \*\*\***

*Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.*

December 7, 2017

Oroville Planning Commission Members

I am writing this letter of support, calling upon Oroville decision makers to move forward with the flavor/menthol ban and fee increase proposal on the newly passed Tobacco Retail Licensing policy. My experience in working with high school youth on tobacco prevention advocacy activities for over 20 years has proven that youth are angry about being the targets of multibillion dollar marketing campaigns, designed by tobacco companies to lure young people into using their products. The awareness about youth being manipulated through marketing to use drugs drives our young people, and all those in our communities, to do something about it.

A solid, comprehensive and enforceable Tobacco Retail Licensing policy would significantly reduce youth exposure to these seductive products and schemes. Chico Kids Leading Everyone Against Nicotine (KLEAN) students have been advocating for a TRL policy over the past several years, and have looked to Oroville 's progressive and caring actions for inspiration and guidance.

Oroville's TRL move towards protecting young people in their community from deadly tobacco products provides our youth and community members with evidence of the extent to which the key decision makers in Butte County understand, and act upon those serious health issues affecting our youth.

Tobacco retailers may not like being asked to reduce or eliminate the number of drugs being marketed to youth in their stores. But we all know that this is the most ethical position to take when the health of our youth is being jeopardized. Tobacco retailers certainly may not like having to pay a fee that would help them operate a business in compliance with existing tobacco laws. But we all know that this is the most ethical position to take.

Listen to the experts on these issues. Read the research. Think of the children in your own families eyeing the candy-like products infused with nicotine. Then the choice of how to vote will be an easy one.

Thank you,

Ann E Brodsky

Coordinator, Tobacco Use Prevention Education

Chico Unified School District

abrodsky@chicousd.org





**CITY OF OROVILLE  
PLANNING COMMISSION MEETING MINUTES  
OCTOBER 26, 2017 – 7:00 PM**

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These minutes detail the action which was taken related to each agenda item and do not reflect any discussion that may have occurred. For information regarding what was discussed related to a particular item, if anything, you can obtain a copy of the audio recording for this meeting by sending an email to [cityclerk@cityoforoville.org](mailto:cityclerk@cityoforoville.org) or by calling the Clerk's office at 530-538-2535.

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The agenda for the October 26, 2017 regular meeting of the Oroville Planning Commission was posted on the bulletin board at the front of City Hall and in the City Council Chambers, and on the City of Oroville's website located at [www.cityoforoville.org](http://www.cityoforoville.org), on Monday, October 20, 2017, at 11:30 a.m.

**1. CALL TO ORDER**

The July 27, 2017 regular meeting of the Oroville Planning Commission was called to order by Vice Chairperson Durling, at 7:01 p.m.

**2. ROLL CALL**

Present: Commissioners Brand, Chapman, Jenkins, McDavitt, Vice Chairperson Durling  
Absent: Commissioner Britton, Chairperson Robison (excused)

**Staff Present:**

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Donald Rust, Acting City Administrator  
Dawn Nevers, Assistant Planner

Luis Topete, Associate Planner  
Jamie Hayes, Assistant City Clerk

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**3. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Chairperson Robison.

**4. RECOGNITION OF INDIVIDUALS WISHING TO SPEAK ON AGENDA ITEMS**

Scott Hubbard – Item No. 9.1

Mark Mendez – Item No. 9.3

**5. PUBLIC COMMENT - None**

**6. CORRESPONDENCE - None**

7. **APPROVAL OF MINUTES**

Approval of the minutes of the July 27, 2017 regular Planning Commission meeting.

A motion was made by Commissioner Chapman, seconded by Commissioner Jenkins, to:

**Approve the minutes of the July 27, 2017 regular Planning Commission meeting.**

The motion was passed by the following vote:

Ayes: Commissioners Brand, Chapman, Jenkins, McDavitt, Vice Chairperson  
Durling  
Noes: None  
Abstain: None  
Absent: Commissioner Britton, Chairperson Robison

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**REGULAR AGENDA**

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8. **PUBLIC HEARINGS** - None

9. **REGULAR BUSINESS**

9.1 **ARCO – AM/PM STATION – FINDING OF PUBLIC CONVENIENCE OR NECESSITY (TYPE 21) – staff report**

The Oroville Planning Commission considered adopting a Finding of Public Convenience or Necessity for a Type-21 “Off Sale General – Package Store” alcoholic beverage license for the property identified as 410 Oro Dam Boulevard (APN: 035-030-085), the existing location of the ARCO – am/pm station. **(Luis Topete, Associate Planner)**

Scott Hubbard, Applicant, responded to inquiries from the Commission.

Following discussion, a motion was made by Commissioner Chapman, seconded by Commissioner Jenkins, to:

**Adopt Resolution No. P2017-15: A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION FINDING AND DETERMINING THAT THE PUBLIC CONVENIENCE OR NECESSITY WOULD BE SERVED BY THE ISSUANCE OF AN OFF-SALE GENERAL – PACKAGE STORE (TYPE-21) ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 410 ORO DAM BOULEVARD, OROVILLE, CA 95965 (APN: 035-030-085).**

The motion was passed by the following vote:

Ayes: Commissioners Brand, Chapman, Jenkins, McDavitt, Vice Chairperson  
Durling  
Noes: None  
Abstain: None  
Absent: Commissioner Britton, Chairperson Robison



**9.2 PRIORTIZATION OF CAPITAL IMPROVEMENT PROGRAM (TCIP) PROJECTS LIST – staff report**

The Oroville Planning Commission received the City's TCIP projects list for consideration of potential recommendations to send the City Council. **(Luis Topete, Associate Planner)**

**Following discussion, the Commission continued this item to the next regular Planning Commission meeting for further discussion.**

**9.3 POTENTIAL DRIVE-THRU RESTAURANT AT 1355 WASHINGTON AVENUE – staff report**

The Oroville Planning Commission will review and consider providing direction on the application process for the proposed project. **(Luis Topete, Associate Planner)**

Mark Mendez, Applicant, addressed questions relating to the development of a drive-thru restaurant at 1355 Washington Avenue.

**Following discussion, the Commission directed staff to initiate a rezone to mixed use commercial zoning.**

**10. DISCUSSION ITEMS**

The Commission discussed Planning Commission meeting dates for November and December. Following discussion, the Commission directed staff to schedule the next Planning Commission meeting on December 14, 2017, at 7:00 p.m.

**DIRECTOR'S REPORT**

Donald Rust, Director of Community Development, reported on the following:

- Development of former Walmart property – update
- Development of Gateway Project – update
- Development of Feather River Tribal Health Project – update
- Kentucky Fried Chicken – update
- Carl's Jr. – update
- Oroville Hospital Expansion Project - update

**11. CHAIRPERSON/COMMISSIONERS REPORTS**

Commissioner Chapman gave a brief report on the American Planning Association's Annual Conference.

**14. ADJOURNMENT**

The meeting was adjourned at 8:13 p.m. A regular meeting of the Oroville Planning Commission will be held on Thursday, December 14, 2017, at 7:00 p.m.

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Donald Rust, Secretary

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Damon Robison, Chairperson



# City of Oroville

Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION STAFF REPORT

December 14, 2017

**ZC 17-01: Rezone of 1355 Washington Avenue from MXD to MXC** – The Oroville Planning Commission will review and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from Downtown Mixed Use (MXD) to Corridor Mixed Use (MXC).

**APPLICANTS:** City of Oroville

**LOCATION:** 1355 Washington Avenue  
Oroville, CA 95965  
APN: 013-030-010

**GENERAL PLAN:** Mixed Use  
**EXISTING ZONING:** Downtown Mixed Use (MXD)  
**PROPOSED ZONING:** Corridor Mixed Use (MXC)  
**FLOOD ZONE:** ZONE X: Areas determined to be outside the 0.2% annual chance floodplain.

#### ENVIRONMENTAL DETERMINATION:

- General Rule Exemption; Title 14, CCR, §15061(b)(3)
- Existing Facilities; Title 14, CCR, §15301
- New Construction or Conversion of Small Structures; Title 14, CCR, §15303

#### REPORT PREPARED BY:

Luis A. Topete, Associate Planner  
Community Development Department

#### REVIEWED BY:

Donald Rust, Director  
Community Development Department

#### RECOMMENDED ACTIONS:

City staff recommends that the Planning Commission take the following actions:

1. **HOLD** a public hearing and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from MXD to MXC; and

2. **ADOPT** the General Rule Exemption – Title 14, CCR, §15061(b)(3); Existing Facilities Exemption – Title 14, CCR, §15301; and New Construction or Conversion of Small Structures Exemption – Title 14, CCR, §15303, as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) Statute and Guidelines (**Attachment H**); and
3. **ADOPT** Resolution No. P2017-16 (**Attachment I**).

## **SUMMARY**

The Oroville Planning Commission will review and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from Downtown Mixed Use (MXD) to Corridor Mixed Use (MXC).

## **DISCUSSION**

Staff is recommending a rezone of the property located at 1355 Washington Avenue (APN: 013-030-010) from MXD to MXC. This property has a long history of issues with the State Water Control Board and has been sitting idle for many years. The new property owner intends to renovate the property into a drive-thru restaurant. However, the property has a zoning designation of MXD which permits restaurants by right, subject to a zoning clearance, but does not permit the approval of a drive-thru restaurant. This property is located at the northeastern edge of what is considered the City's downtown commercial district, on the east end of the roundabout at Montgomery Street, Table Mountain Boulevard and Washington Avenue.

The property has an existing structure approximately 970 square feet in size which the property owner intends to convert into a drive-thru restaurant. No application for a drive thru restaurant has been submitted as the property, as zoned, does not permit a drive-thru, although the intended restaurant use is permitted by right, subject to a zoning clearance. Once the property is rezoned to MXC and the applicant can apply for the operation of a drive thru restaurant at the subject project, the City will review the project specific impacts associated with the project as approval of a Conditional Use Permit would be required. The current zoning of MXD is a use that allows for a residential density more than double that of an MXC district, and may allow a Floor Area Ratio of up to 3.5 times that of an MXC district. Thus, the proposed Rezone would reduce the potential density of the site substantially.

## **ENVIRONMENTAL REVIEW**

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption," Section 15301 "Existing Facilities," and Section 15303 "New Construction or Conversion of Small Structures."

General Rule; Title 14, CCR, §15061(b)(3)

A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Existing Facilities; Title 14, CCR, §15301

Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities mechanical equipment, or topographical features, involving negligible or not expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

New Construction or Conversion of Small Structures; Title 14, CCR, §15303

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.

The property has an existing structure approximately 970 square feet in size which the property owner intends to convert into a drive-thru restaurant. No application for a drive thru restaurant has been submitted as the property, as zoned, does not permit a drive-thru, although the intended restaurant use is permitted by right, subject to a zoning clearance. Once the property is rezoned to MXC and the applicant can apply for the operation of a drive thru restaurant at the subject project, the City will review the project specific impacts associated with the project as approval of a Conditional Use Permit would be required. The current zoning of MXD is a use that allows for a residential density more than double that of an MXC district, and may allow a Floor Area Ratio of up to 3.5 times that of an MXC district. As the building is existing and the proposed Rezone would reduce the potential density of the site substantially, this action has been found to be exempt from further CEQA review. **(Attachment H)**

## **FISCAL IMPACT**

Costs associated with staff time and materials to process the rezone and \$50.00 Butte County Clerks Filing Fee for filing the Notice of Exemption.

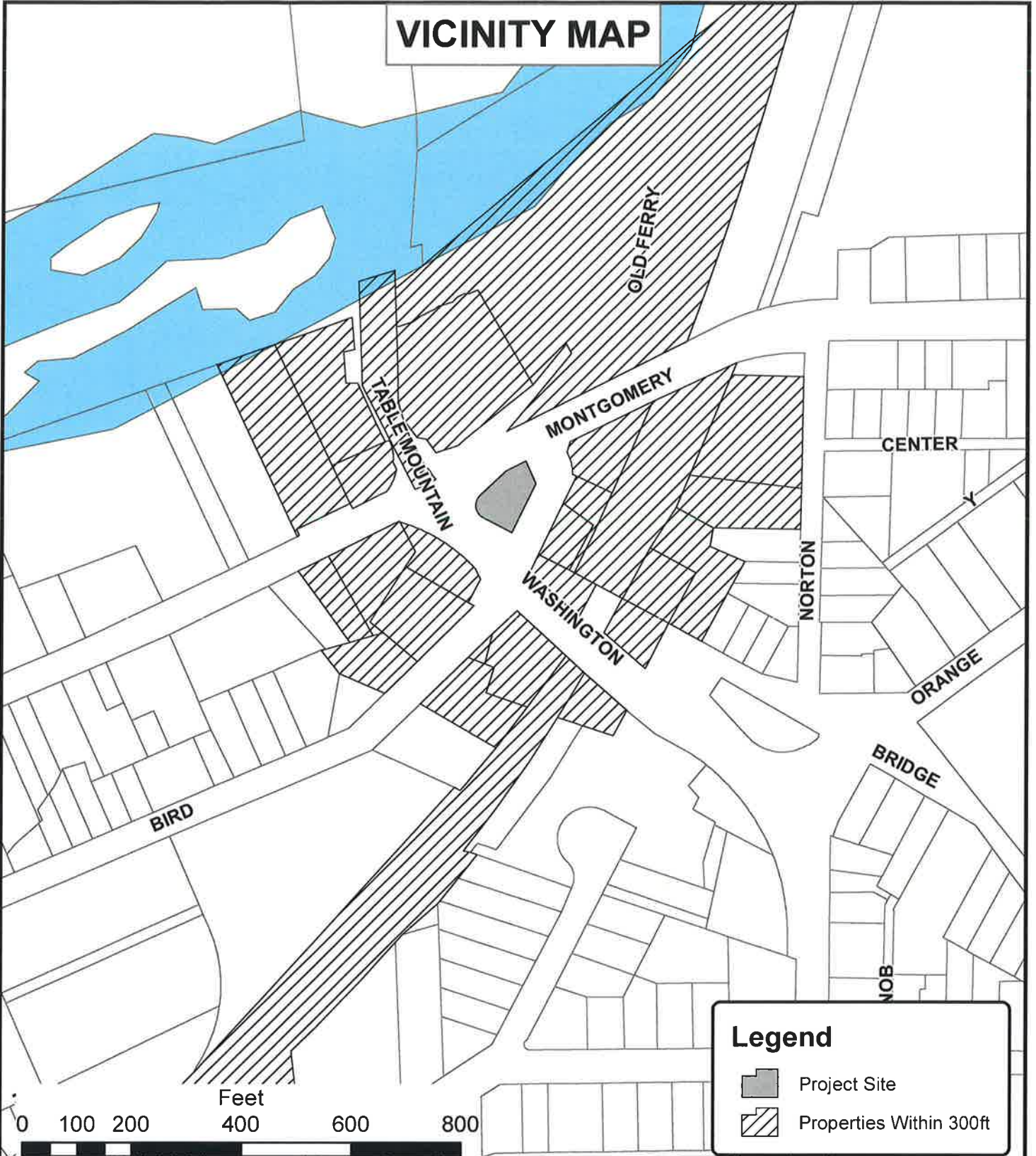
## **PUBLIC NOTICE**

The meeting date, time, and project description were published in the Oroville Mercury Register and posted at City Hall (**Attachment J**).


## **ATTACHMENTS**

- A – Vicinity Map
- B – Aerial Map
- C – Surrounding General Plan Land Uses
- D – Surrounding Zoning Districts
- E – Allowed Uses in Mixed Use Districts
- F – MXD Development Standards
- G – MXC Development Standards
- H – Notice of Exemption
- I – Resolution No. 2017-16
- J – Newspaper Notice

# VICINITY MAP



## CITY OF OROVILLE PLANNING DIVISION

<i>Applicant:</i> City of Oroville		<i>Project Title:</i> ZC 17-01: Rezone from MXD to MXC		
<i>Project Location:</i> 1355 Washington Avenue (APN: 013-030-010)				
<i>General Plan:</i> Mixed Use	<i>Zoning Designation:</i> Downtown Mixed Use (MXD)	<i>Requested Entitlements:</i> Rezone from MXD to MXC		
<i>TRAKiT #</i> Project#: PL1710-005	<i>Assessor's Parcel #:</i> 013-030-010		ZC 17-01	



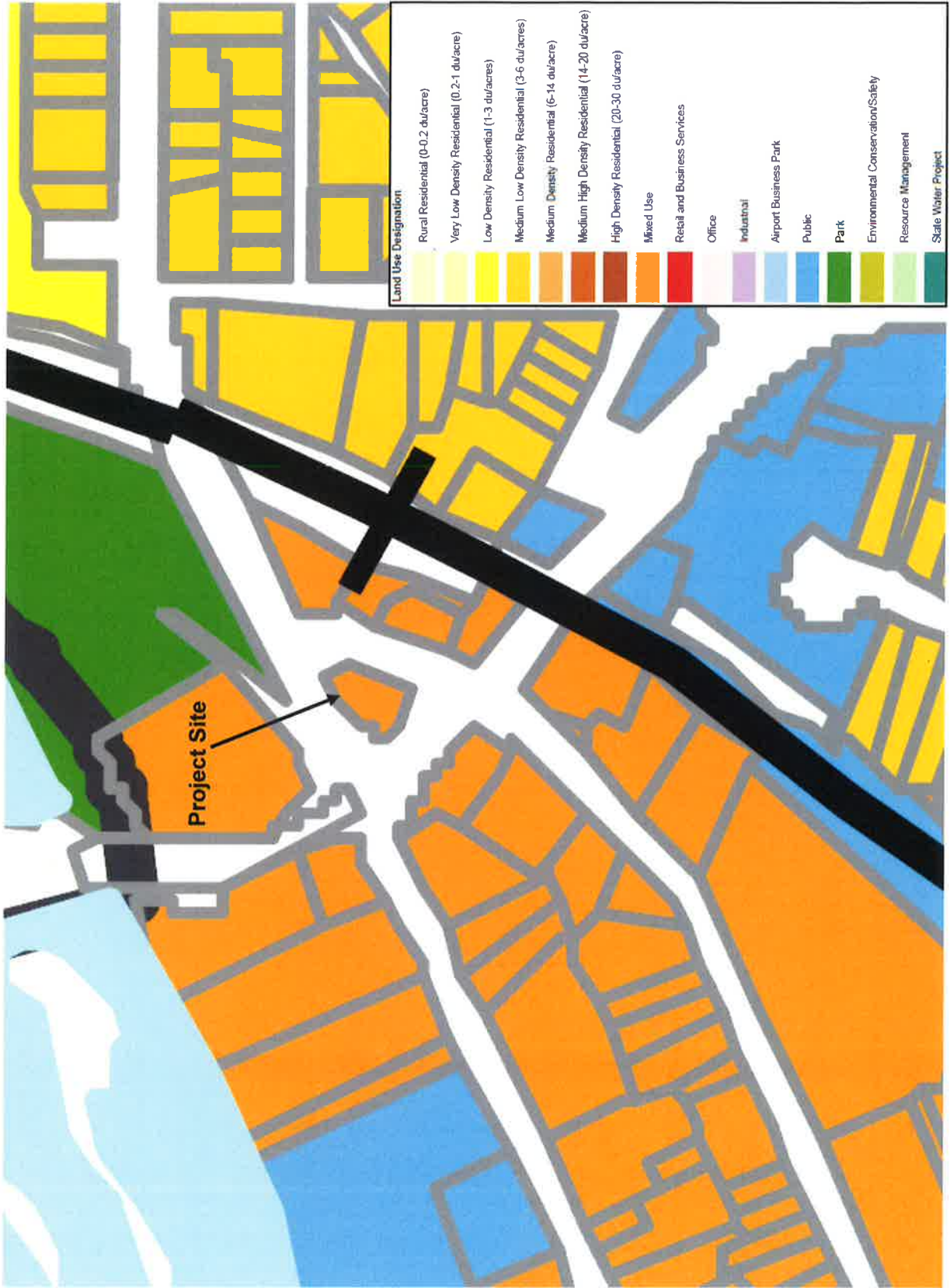


**AERIAL MAP**



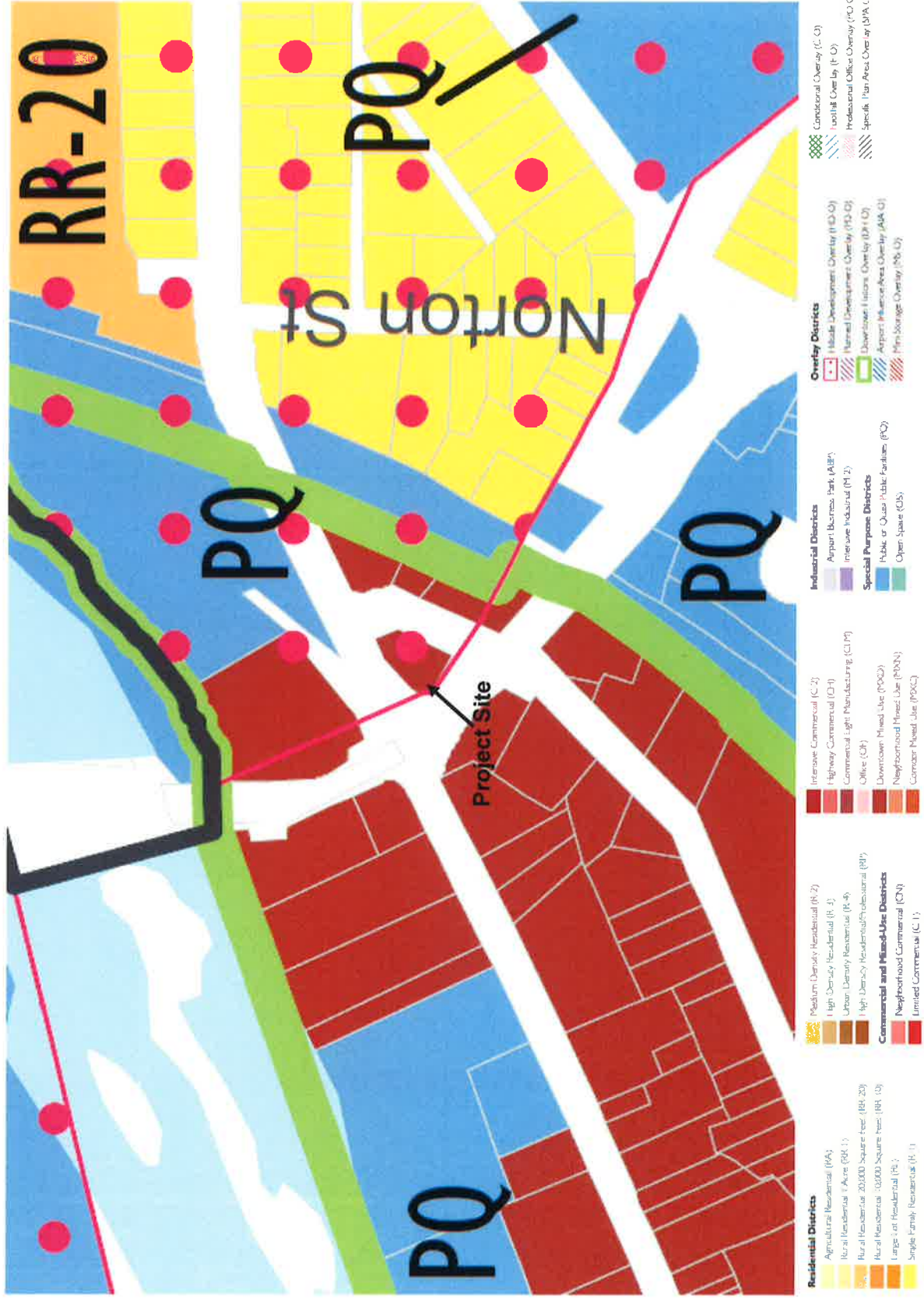


# GENERAL PLAN LAND USE DESIGNATIONS





# ZONING DISTRICTS





<b>Oroville Municipal Code</b>							
<a href="#">Up</a>	<a href="#">Previous</a>	<a href="#">Next</a>	<a href="#">Main</a>	<a href="#">Search</a>	<a href="#">Print</a>	<a href="#">No Frames</a>	

[Title 17 ZONING](#)  
[Chapter 17.34 MIXED-USE DISTRICTS](#)

**17.34.020 Allowed uses in mixed-use districts.**

Table 17.34.020-1 shows the uses allowed in the mixed-use districts. These uses include:

- A. **Permitted Use (P).** Uses shown with a “P” are permitted by-right with zoning clearance approval. See Section 17.48.030 (Zoning clearances).
- B. **Administrative Permit Required (AP).** Uses shown with an “AP” require an administrative permit. See Section 17.48.020 (Administrative permits).
- C. **Use Permit Required (UP).** Uses shown with a “UP” require a use permit. See Section 17.48.010 (Use permits).
- D. **Use-Specific Regulations (S).** Uses shown with an “S” must comply with specific regulations for that use. The table identifies the section number for the use-specific regulations.
- E. **Use Not Allowed (-).** Uses shown with a “-” or that are not listed, are not allowed.

**Table 17.34.020-1:  
 Allowed Uses in Mixed-Use Districts**

<b>Key</b>				
<b>P</b>	Permitted use, subject to zoning clearance			
<b>AP</b>	Administrative permit required			
<b>UP</b>	Use permit required			
<b>S</b>	See use-specific regulations for permit requirement			
<b>-</b>	Use not allowed			

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
<b>Local Food Uses</b>				
Neighborhood food and beverage sales	AP	AP	AP	17.16.220 (Neighborhood food and beverage sales)
Urban agriculture	S	S	S	17.16.230 (Urban agriculture)
<b>Public Assembly</b>				
Carnival, circus or fair	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Commercial recreational facility—indoor, 10,000 square feet or less of gross floor area	UP	UP	P	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Commercial recreational facility—indoor, more than 10,000 square feet of gross floor area	UP	UP	UP	
Commercial recreational facility—outdoor	-	-	UP	
Concert or performance	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Library or museum	UP	UP	UP	
Meeting facility—10,000 square feet or less of gross floor area	P	P	P	
Meeting facility—more than 10,000 square feet of gross floor area	UP	UP	P	
Park or playground	UP	UP	UP	
School, public	UP	UP	UP	
School, private	UP	UP	UP	
Training facility	UP	UP	UP	
<b>Residential [1]</b>				
Caretaker residence	UP	UP	-	
Family day care, large	S	S	S	17.16.050 (Family day care homes)
Family day care, small	P	P	P	17.16.050 (Family day care homes)
Home occupation, low-impact	S	S	S	17.16.040 (Home occupation)
Home occupation, moderate-impact	S	S	S	17.16.040 (Home occupation)
Mixed-use development	P	P	P	17.16.030 (Mixed-use development)
Multiple-family dwellings [1]	-	P	P	
Residential care facility—6 units or fewer	P	P	P	
Residential care facility—7 units or more	UP	UP	-	
<b>Retail</b>				
Alcoholic beverage sales	UP	UP	UP	
Building supply	-	-	-	
Equipment and machinery sales or rental	-	-	-	
Drive-through establishment—pharmacy	-	-	UP	17.16.080 (Drive-through establishments)



Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Drive-through establishment all other uses	-	-	UP	17.16.080 (Drive-through establishments)
Farmers market	AP	AP	AP	
Food and beverage sales—10,000 square feet or less of gross floor area	P	P	P	
Food and beverage sales—10,001 to 40,000 square feet of gross floor area	UP	P	P	
Food and beverage sales—more than 40,000 square feet of gross floor area	UP	UP	P	
Funeral merchandise sales	UP	UP	UP	
Gas station	-	-	UP	17.16.070 (Gas stations)
General retail—10,000 square feet or less of gross floor area	P	P	P	
General retail—10,001 to 40,000 feet of gross floor area	UP	P	P	
General retail—more than 40,000 square feet of gross floor area	-	UP	UP	
Marijuana dispensary	-	-	-	
Mobile food vendor	AP	AP	AP	17.16.150 (Mobile food vending)
Pet store	UP	UP	UP	17.16.120 (Animal keeping)
Plant nursery or garden supply store	UP	UP	P	
Restaurant or café	P	P	P	
Seasonal holiday agricultural sales	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Shopping center, 1,000 square feet or less of gross floor area	P	P	P	
Shopping center, 1,000 square feet or greater of gross floor area	P	UP	P	
Smoke shop	UP	UP	UP	17.36.010 (Allowed uses in industrial districts)
Vehicle sales—automobile, new	-	-	P	
Vehicle sales—all other	-	-	UP	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
<b>Services</b>				
Animal grooming	UP	UP	UP	17.16.120 (Animal keeping)
Animal keeping, noncommercial	P	P	P	17.16.120 (Animal keeping)
Bank or financial service	P	P	P	
Bed and breakfast	P	P	P	
Business support service	P	P	P	
Car wash	-	UP	UP	17.16.090 (Car and vehicle washes)
Catering service	P	P	P	
Child day care center	P	P	P	
Gym	P	P	P	
Hospital	-	-	-	
Hotel or motel	UP	-	UP	
Instructional or production studio	P	-	P	
Kennel	-	-	UP	17.16.120 (Animal keeping)
Mortuary	UP	-	UP	
Office—professional	P	P	P	
Office—all other	P	P	P	
Outpatient Services	UP	UP	UP	
Personal services—low-impact	P	P	P	
Personal services—moderate-impact	UP	UP	UP	
Temporary real estate office	AP	AP	AP	17.16.060 (Temporary uses and buildings)
Temporary uses not listed here	S	S	S	17.16.060 (Temporary uses and buildings)
Veterinarian	UP	UP	P	17.16.120 (Animal keeping)
<b>Manufacturing, Wholesale, Repair, and Storage</b>				
Food or beverage production	UP	-	UP	
Landscape material sales	-	-	UP	
Manufacturing—20,000 square feet or less of gross floor area	UP	-	UP	

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
Metalwork—10,000 square feet or less of gross floor area	UP	-	UP	
Mini-storage facility	-	-	-	17.44.060 (MS-O: mini-storage overlay)
Outdoor storage—250 square feet or less	-	-	P	17.16.140 (Outdoor storage)
Outdoor storage—more than 250 square feet	UP	UP	UP	17.16.140 (Outdoor storage)
Repair service, large equipment—20,000 square feet or less of gross floor area	-	-	UP	
Repair service, small appliances	P	P	P	
<b><i>Transportation and Infrastructure</i></b>				
Parking garage or lot as primary use	UP	UP	UP	
Public safety facility	UP	UP	UP	
Solar energy system, Tier 1	P	P	P	17.16.180 (Solar energy systems)
Solar energy system, Tier 2	AP	AP	AP	17.16.180 (Solar energy systems)
Solar energy system, Tier 3	UP	UP	UP	17.16.180 (Solar energy systems)
Utility building or substation	P	P	P	

[1] Residential uses in the downtown mixed-use district are permitted only on upper stories above ground floor commercial uses.

(Ord. 1819 § 8, 2017)

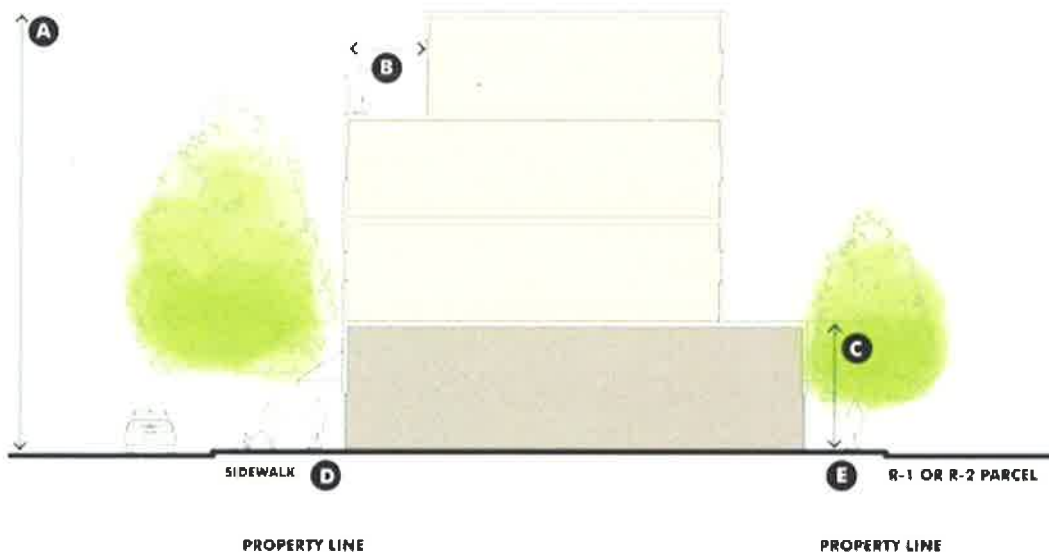
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**17.34.030 Downtown mixed-use development standards.**

The standards below apply to all primary buildings in the downtown mixed-use zoning district. Figure 17.34.030-1 shows the location of primary streets and secondary streets as referenced in these standards.

A. **Building Form and Placement.** All new buildings shall comply with the building form and placement standards in Table 17.34.030-1 and Figure 17.34.030-2.



**Figure 17.34.030-2 Development Standards in the Downtown Mixed-Use District**

**Table 17.34.030-1:  
 Development Standards in the Downtown Mixed-Use District**

Building Height	A	55 ft. and four stories maximum
Upper Floor Stepbacks	B	10 ft. min. above the third floor
Ground Floor Ceiling Height, Minimum	C	15 ft.
Floor Area Ratio		2.0 maximum [1]
Residential Density		70 du/acre maximum
Setbacks		
Front and Street Side	D	Buildings shall be set back from the front property line so that the combined width of the sidewalk and setback is a minimum of 10 ft. If the width of the adjacent front sidewalk is 10 ft. or greater, no front setback is required. In no case shall a building be set back more than 5 ft. from the back of the adjacent sidewalk.
Interior Side		

		10 ft. minimum for parcels adjacent to a residential zone; no required interior side rear setback for all other parcels
Rear	E	10 ft. minimum for parcels backing into a residential zone; no required rear setback for all other parcels

[1] A maximum FAR of 3.5 is permitted for projects that provide community benefits. See Section 17.26.010 (Incentives for community benefits).

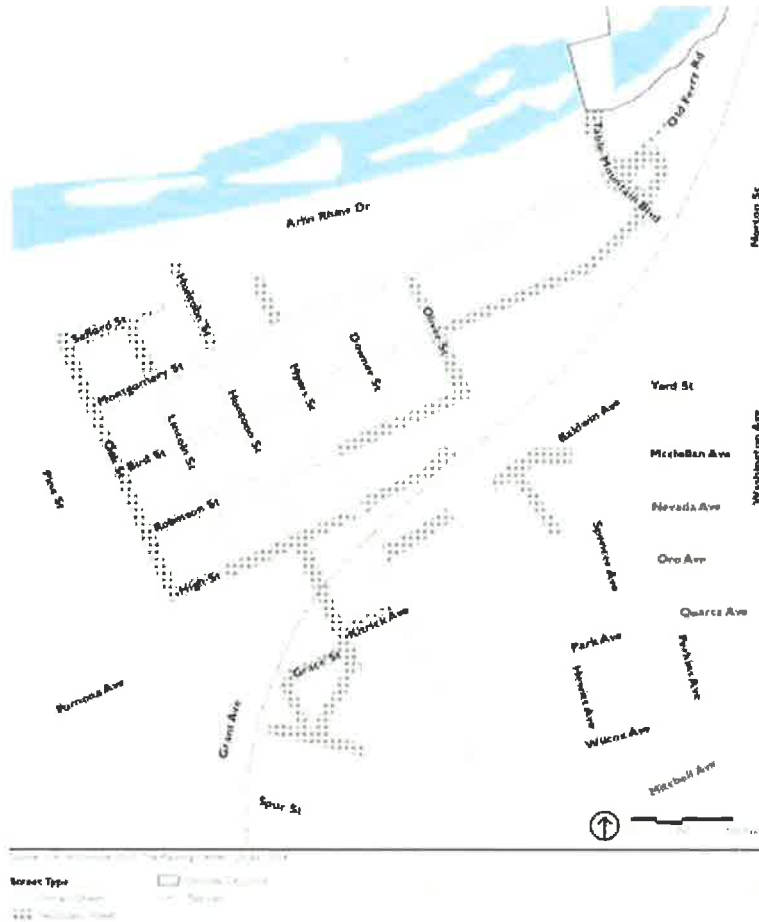
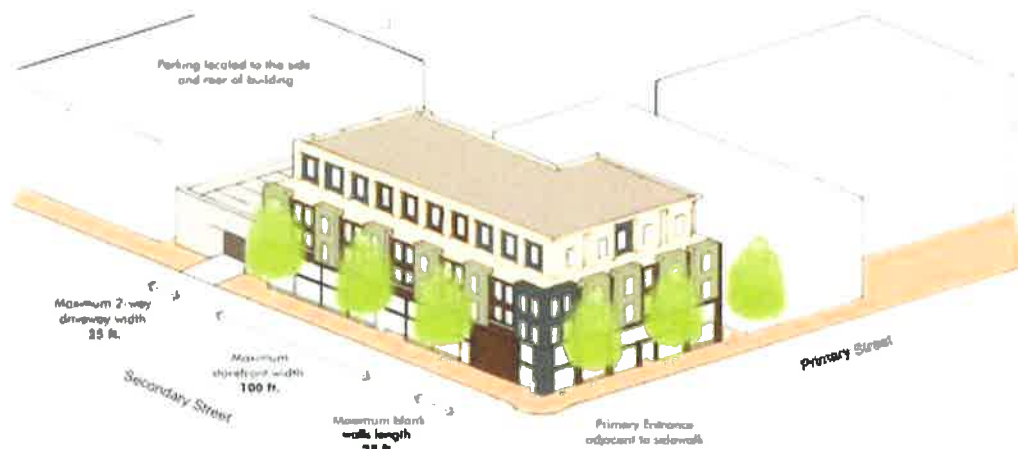


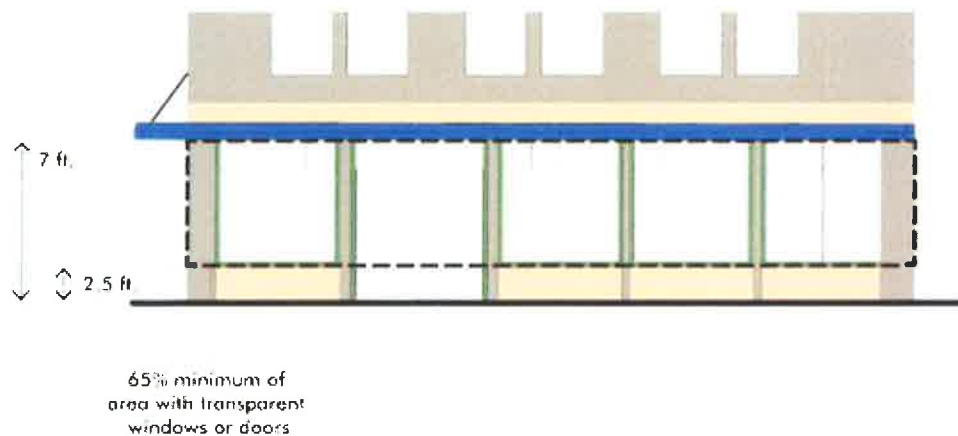
Figure 17.34.030-1 Primary and Secondary Streets

B. **Public Realm.** The following standards support an active and inviting public realm in the downtown mixed-use zoning district. These standards are illustrated in Figure 17.34.030-3.



**Figure 17.34.030-3 Downtown Mixed Public Realm Standards**

1. **Building Entrances.** For buildings on a parcel abutting a primary street, the primary building entrance must face either:
  - a. The primary street sidewalk; or
  - b. A pedestrian-oriented outdoor space such as a public square, plaza, or courtyard.
2. **Building Width.** A building must occupy at least 50% of its parcel width.
3. **Storefront Width.** The maximum building/storefront width is 50 feet on a primary street and 100 feet on a secondary street. Larger buildings shall be divided into a pedestrian-scale rhythm with individual building bay widths.
4. **Ground-Floor Building Transparency.**
  - a. The ground-floor building walls of a non-residential use facing a primary street shall provide transparent windows or doors with views into the building for a minimum of 65% of the building frontage between 2½ and 7 feet above the sidewalk (see Figure 17.34.030-4). Ninety percent (90%) of the transparent windows or doors area shall remain clear to allow views into the building.
  - b. Exceptions to this transparency requirement may be allowed with a use permit if the planning commission finds that:
    - i. The proposed use has unique operational characteristics which preclude building openings, such as for a cinema or theatre; and
    - ii. Street-facing building walls will exhibit architectural relief and detail, and will be enhanced with landscaping in such a way as to create visual interest at the pedestrian level.



**Figure 17.34.030-4 Ground-Floor Building Transparency**

5. **Blank Walls.** The maximum length of an unarticulated/blank building wall is 10 feet on a primary street and 25 feet on a secondary street. Building articulation may be provided by:
  - a. Doors, windows, and other building openings.
  - b. Building projections or recesses, doorway and window trim, and other details that provide architectural articulation and design interest.
  - c. Varying wall planes, heights or contrasting materials and colors.
  - d. Awnings, canopies, or arcades to reinforce the pedestrian scale and provide shade and cover from the elements.
6. **Parking Location and Buffers.**
  - a. Surface parking is prohibited between a building and a primary street property line. Surface parking shall be located to the rear or side of buildings.
  - b. Parking completely or partially underground may match the setbacks of the primary structure. The maximum height of a parking podium visible from a street is 5 feet from finished grade.
7. **Parking Buffers.**
  - a. Surface parking adjacent to a primary street frontage property line shall be screened along the public right-of-way with a decorative wall, hedge, trellis, or landscaping at least 3 feet in height.
  - b. A landscaped buffer at least 3 feet in width and 6 feet in height is required for a parking lot next to a residential zoning district.
  - c. Service loading areas shall be located to the side and rear of buildings, and shall be sufficiently screened from the public right-of-way by a 6-foot high solid wall or row of densely planted evergreen trees or similar landscaping.
8. **Parking Structures.** Parking structures facing a primary street shall incorporate commercial uses on the ground floor that fronts the sidewalk. Commercial uses shall comply with the public realm standards in this subsection B.
9. **Driveways and Curb Cuts.**



a. New driveways shall comply with the dimension standards shown in Table 17.34.030-2. The community development director may approve exceptions to these standards if necessary to accommodate shared or joint use of driveways and parking lots.

**Table 17.34.030-2:**

**Driveway Dimension Standards**

Driveway Type	Driveway Width	
	Minimum	Maximum
1-way	8 ft.	12 ft.
2-way	20 ft.	25 ft.

b. New driveways may not cross an existing public sidewalk along a primary street frontage. (Ord. 1819 § 8, 2017)

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Oroville Municipal Code							
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[Title 17 ZONING](#)

[Chapter 17.34 MIXED-USE DISTRICTS](#)

### **17.34.040 Neighborhood and corridor mixed-use development standards.**

A. **Building Form and Placement.** All new buildings in the neighborhood and corridor mixed-use districts shall comply with the building form and placement standards in Table 17.34.040-1.

**Table 17.34.040-1:**

**Development Standards for Neighborhood and Corridor Mixed Use Districts**

Development Standard	Zoning Districts	
	MXN	MXC
Residential density	30 du/ac maximum	
Height, maximum [1]	40 feet	60 feet
Setbacks, minimum [2]		
Front	None, except as required in [3] and [4]	
Side, interior lot	None, except as required in [5] and [6]	
Side, corner lot	None, except as required in [5] and [6]	
Rear	None, except as required in [7]	
Floor area ratio, maximum [8]	1.0	

[1] Maximum heights apply to main buildings or structures. Height restrictions for accessory structures are in Section 17.12.090 (Accessory buildings and swimming pools). Exceptions to height standards are in Section 17.12.030 (Height limits).

[2] See Section 17.12.040 (Setback requirements) for additional setbacks requirements.

[3] For sites next to a residential district, the front setback is the same as in that residential district. This requirement does not apply where a street separates the site from the residential district.

[4] The required minimum front setback along Oroville Dam Boulevard, Olive Highway, and Feather River Boulevard is 12 feet.

[5] For sites next to a residential district, the required minimum setback is 10 feet on the side next to the residential district.

[6] Where a side setback area provides access to a dwelling group, the required minimum side setback is 12 feet.

[7] The required minimum rear setback is 20 feet if the rear of the site abuts a residential district.

[8] See Section 17.44.040 (DH-O: Downtown historic overlay) regarding the maximum floor area ratio in downtown historic overlay (DH-O) district.

B. **Pedestrian Environment.** The following standards support a pedestrian-friendly environment in the neighborhood and corridor mixed-use zoning districts.

1. **Building Siting and Orientation.** The maximum length of an unarticulated/blank building wall visible from a public street is 50 feet. Building articulation may be provided by windows, doors, and other architectural elements that support an active building frontage.

2. **Pedestrian Orientation.**

a. Pedestrian connections shall be provided between parking areas and building entrances. Where walkways cross driveways, the project shall include design features for pedestrian safety, such as elevated crosswalks and textured pavement.

b. A pedestrian connection is required between an adjacent sidewalk and the building entrance.

**3. Parking.**

- a. One row of parking is permitted between buildings and the front street. The maximum width of this front parking area is 40 feet. All additional parking must be located to the side or rear of buildings.
- b. For horizontal mixed-use development, parking areas may not separate adjacent land uses on a site. Uninterrupted pedestrian connections between land uses are required.
- c. For parking areas adjacent to a public street, a 10-foot landscaped buffer is required between the parking area and the street. Landscaping shall be designed and maintained to allow for public views into the site. (Ord. 1819 § 8, 2017)

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# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

*Donald Rust*  
DIRECTOR

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

## NOTICE OF EXEMPTION

<b>TO:</b>	Butte County Clerk 25 County Center Drive Oroville CA, 95965	<b>FROM:</b>	City of Oroville 1735 Montgomery Street Oroville, CA, 95965
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Project Title: ZC 17-01: Rezone of 1355 Washington Avenue from MXD to MXC

Project Location – Specific: 1355 Washington Avenue (APN: 013-030-010)

Project Location – City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The property located at 1355 Washington Avenue (APN: 013-030-010) has an existing General Plan land use designation of Mixed Use and Zoning designation of Downtown Mixed Use (MXD). Staff is recommending a rezone of the property from MXD to Corridor Mixed Use (MXC). This property has a long history of issues with the State Water Control Board and has been sitting vacant for many years. The new property owner intends to renovate the property into a drive-thru restaurant. However, the property has a zoning designation of MXD which permits restaurants by right, subject to a zoning clearance, but does not permit the approval of a drive-thru restaurant. This property is located at the northeastern edge of what is considered the City's downtown commercial district, on the east end of the roundabout at Montgomery Street and Washington Avenue.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying out Project: City of Oroville

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
  - General Rule; Title 14, CCR, §15061(b)(3)
  - Existing Facilities; Title 14, CCR, §15301
  - New Construction or Conversion of Small Structures; Title 14, CCR, §15303
- Statutory Exemption: State code number:

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption," Section 15301 "Existing Facilities," and Section 15303 "New Construction or Conversion of Small Structures."

General Rule: Title 14, CCR, §15061(b)(3)

A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on

the environment, the activity is not subject to CEQA.

Existing Facilities; Title 14, CCR, §15301

Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities mechanical equipment, or topographical features, involving negligible or not expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use.

New Construction or Conversion of Small Structures; Title 14, CCR, §15303

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to a store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area.

The property has an existing structure approximately 970 square feet in size which the property owner intends to convert into a drive-thru restaurant. No application for a drive thru restaurant has been submitted as the property, as zoned, does not permit a drive-thru, although the intended restaurant use is permitted by right, subject to a zoning clearance. Once the property is rezoned to MXC and the applicant can apply for the operation of a drive thru restaurant at the subject project, the City will review the project specific impacts associated with the project as approval of a Conditional Use Permit would be required. The current zoning of MXD is a use that allows for a residential density more than double that of an MXC district, and may allow a Floor Area Ratio of up to 3.5 times that of an MXC district. As the building is existing and the proposed Rezone would reduce the potential density of the site substantially, this action has been found to be exempt from further CEQA review.

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?  Yes  No

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- Signed by Lead Agency  
 Signed by Applicant

## RESOLUTION NO. P2017-16

**A RESOLUTION OF THE OROVILLE CITY PLANNING COMMISSION MAKING FINDINGS AND SENDING A RECOMMENDATION TO THE CITY COUNCIL TO APPROVE THE REZONE OF 1355 WASHINGTON AVENUE (APN: 031-030-010) FROM DOWNTOWN MIXED USE (MXD) TO CORRIDOR MIXED USE (MXC)**

**WHEREAS**, whenever the public health, safety and welfare warrant it, the City council may by ordinance amend, supplement or change the regulations that the Zoning Code establishes for the zoning of property, provided that the Zoning Code shall be consistent with the General Plan; and

**WHEREAS**, the existing General Plan land use designation is Mixed Use and will remain Mixed Use; and

**WHEREAS**, the project site is currently zoned Downtown Mixed Use (MXD) would be rezoned to Corridor Mixed Use (MXC); and

**WHEREAS**, at a noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the Rezone described herein, and also considered City staff's report regarding the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION** as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption," Section 15301 "Existing Facilities," and Section 15303 "New Construction or Conversion of Small Structures."
2. Based upon the evidence in the record before it, the following findings are adopted for the Rezone:
  - a. There is no evidence in the record before the Commission to support a finding that potentially significant adverse environmental effects are likely to occur as a result of approval of ZC 17-01, which determination reflects the Planning Commissioners' independent judgment and analysis.
  - b. This Rezone complies with all State and City regulations governing the use of land.
  - c. The Rezone is consistent with and will not impede implementation of Oroville's General Plan or Zoning policies.

3. A recommendation shall be forwarded to the Oroville City Council recommending approval of ZC 17-01.

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a special meeting of the Planning Commission of the City of Oroville held on the 14<sup>th</sup> of December 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

\_\_\_\_\_  
DONALD L. RUST, DIRECTOR

\_\_\_\_\_  
DAMON ROBISON, CHAIRPERSON





# City of Oroville

**Donald Rust**  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### NOTICE OF PUBLIC HEARING BEFORE THE CITY OF OROVILLE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Oroville will hold a public hearing on the projects described below. Said hearing will be held at **7:00 p.m. on Thursday, December 14, 2017** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.

1. **ZC 17-01: Rezone of 1355 Washington Avenue from MXD to MXC** – The Oroville Planning Commission will review and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from Downtown Mixed Use (MXD) to Corridor Mixed Use (MXC).
2. **ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products** – The Oroville Planning Commission will conduct a public hearing to consider sending a recommendation to the Oroville City Council to prohibit the sale of menthol cigarettes and other flavored tobacco products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement.

Additional information regarding the projects described in this notice can be obtained from the Oroville Community Development Department at 1735 Montgomery Street, Oroville, CA. Anyone desiring to submit information, opinions or objections is requested to submit them in writing to the Community Development Department prior to the hearing. In accordance with Government Code Section 65009, if you challenge an action on this project in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public meeting.

Posted/Published: **Monday, December 4, 2017**





# City of Oroville

Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION STAFF REPORT

December 14, 2017

#### **ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products**

- The Oroville Planning Commission will conduct a public hearing to consider sending a recommendation to the Oroville City Council to prohibit the sale of menthol cigarettes and other flavored tobacco products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement.

**APPLICANT:** City of Oroville  
Planning Division  
1735 Montgomery Street  
Oroville, CA 95965

**LOCATION:** Citywide

**GENERAL PLAN:** N/A

**ZONING:** N/A

**FLOOD ZONE:** N/A

#### **ENVIRONMENTAL DETERMINATION:**

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption."

#### **REPORT PREPARED BY:**

Luis A. Topete, Associate Planner  
Community Development Department

#### **REVIEWED BY:**

Donald Rust, Director  
Community Development Department

#### **RECOMMENDED ACTIONS:**

City staff recommends that the Planning Commission take the following actions:

1. **HOLD** a public hearing and consider sending a recommendation to the Oroville City Council to prohibit the sale of menthol cigarettes and other flavored tobacco

products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement; and

2. **ADOPT** the General Rule Exemption – Title 14, CCR, §15061(b)(3) as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) Statute and Guidelines (**Attachment H**); and
3. **ADOPT** Resolution No. P2017-18 (**Attachment I**).

## **BACKGROUND**

On September 22, 2017, staff met with members from the California Health Collaborative who were requesting the City consider restricting the sale of menthol cigarettes and other flavored tobacco products within the City limits.

On November 7, 2017, the Oroville City Council received a presentation from the Director of Program Services for the California Health Collaborative regarding flavored tobacco products in the City of Oroville. The Council gave direction to staff to amend Ordinance No. 1794 to restrict the sale of menthol cigarettes and other flavored tobacco products within the City, increase the fee for a Tobacco Retail License to recover City costs, and increase the fine for violations of the City's tobacco regulations.

## **DISCUSSION**

Local governments in California and across the country have enacted laws restricting the sale of flavored tobacco, and initial evidence shows reductions in youth tobacco use in these communities. The federal Family Smoking Prevention and Tobacco Control Act allows local governments to regulate tobacco product sales, and multiple courts have upheld local laws restricting the sale of flavored tobacco. (**Attachment A**)

In the United States (U.S.), consumption of flavored tobacco products such as cigars, cigarillos, smokeless tobacco, shisha or hookah tobacco, and liquid nicotine solutions (used in electronic smoking devices) have increased in recent years. These products come in a variety of flavors including chocolate, berry, cherry, apple, wintergreen, and peach and are sold in colorful packaging, which make them especially appealing to young people. There is growing concern that flavored tobacco products help users develop habits that can lead to long term nicotine addiction. Both the U.S. Food and Drug Administration (FDA) and the Surgeon General have warned that flavored tobacco products help new users establish habits that can lead to long-term addiction. (**Attachment B**)

ChangeLab Solutions has developed a tobacco retailer license fee calculator to help cities and counties determine the appropriate fee that adequately supports the costs associated with implementing and enforcing a tobacco retailer license program. Staff has used the calculator, provided by ChangeLab Solutions, to determine the appropriate fee adjustment that adequately supports the costs associated with implementing and enforcing the proposed amendments to Ordinance No. 1794. The resulting fee determination was

\$238.64 for a tobacco retailer license, an increase of \$202.64 from the existing fee of \$36 to adequately administer, implement and enforce the proposed amendments. **(Attachments C & D)**

The City Council also directed staff to increase the fines for those found in violation with the City's Tobacco Retail Ordinance. It appears that the most common form of penalizing violators is a combination of suspending or revoking tobacco retailer licenses and imposing fines, both of which Oroville has included in the existing ordinance (No. 1794). Based off a review of and comparison of the City's current enforcement with that of other Cities, staff believes the current fines for a violation, ranging from \$250-\$1,000 per violation, are comparable to other Cities **(Attachment E)**. Additionally, per the California Government Code Section 36901, a city legislative body may impose fines, penalties, and forfeitures for violations of ordinances. However, a fine shall not exceed one thousand dollars (\$1,000). Currently violations are considered a public nuisance. However, as amended, violations may be prosecuted as infractions or misdemeanors.

The proposed ordinance has been drafted using ChangeLab Solutions' Model California Ordinance for restricting the sale of menthol cigarettes and other flavored tobacco products, updated June 2017. It is based on ChangeLab Solutions' legal research and analysis, as well as the research and evidence base regarding consumption of tobacco products and the rising popularity of flavored tobacco products. **(Attachment F)**

This proposed ordinance restricts the sale of all flavored tobacco products, including the following:

- Flavored cigarettes already prohibited by the Tobacco Control Act;
- Menthol cigarettes;
- Other flavored tobacco products, such as cigars, little cigars, cigarillos, smokeless tobacco, shisha (hookah tobacco), electronic smoking devices (ESDs), and the solutions used in ESDs; and
- Flavored components, parts, and accessories, such as flavored rolling papers, filters, and blunt wraps.

## **ENVIRONMENTAL REVIEW**

This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption." **(Attachment H)**

## **FISCAL IMPACT**

Fees that are collected as a result of the adoption of this ordinance are intended to cover the cost of City staff time spent on work tasks that result from the adoption of this ordinance. Any revenues that may result from this ordinance would likely come from the collection of fines from those found in violation of this ordinance.

## **PUBLIC NOTICE**

The meeting date, time, and project description were published in the Oroville Mercury Register and posted at City Hall (**Attachment J**).

## **ATTACHMENTS**

- A – Policy Options Fact Sheet
- B – Flavored Tobacco Products Fact Sheet
- C – Tobacco Retailer License Fee Calculation
- D – Tobacco Retail License Fees of Other California Cities
- E – Policy Matrix of Other California Cities
- F – ChangeLab Solutions' Model California Ordinance
- G – Ordinance No. 1794
- H – Notice of Exemption
- I – Resolution No. P2017-18
- J – Newspaper Notice



## Policy Options for Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products



*This fact sheet outlines local policy options to restrict the sale of menthol cigarettes and other flavored tobacco products, such as cigars, little cigars, smokeless tobacco, hookah tobacco, and electronic smoking devices.*

Due to tobacco companies' marketing efforts, youth, communities of color, low-income populations, and members of LGBTQ communities are significantly more likely to use menthol cigarettes and other flavored tobacco products. These groups disproportionately bear the burden of tobacco-related harm.

Restrictions on Flavored Tobacco Products	Federal Law	California Law
Flavored Cigarettes & Components <sup>1</sup> (excluding menthol)	Prohibited	No restrictions
Flavored Roll-your-own Tobacco (excluding menthol)	Prohibited	No restrictions
Menthol Cigarettes & Roll-your-own Tobacco	No restrictions	
Flavored Cigars & Little Cigars		
Flavored Smokeless Tobacco		
Flavored Electronic Smoking Devices		
Flavored Non-cigarette Components, Parts, & Accessories <sup>2</sup>		

<sup>1</sup>eg, flavored rolling papers and filters intended for use with roll-your-own tobacco

<sup>2</sup>eg, flavored blunt wraps and additives for e-liquids

## What can communities do?

Local governments in California and across the country have enacted laws restricting the sale of flavored tobacco, and initial evidence shows reductions in youth tobacco use in these communities.<sup>1</sup> Your community can pursue similar sales restrictions. The federal Family Smoking Prevention and Tobacco Control Act allows local governments to regulate tobacco product sales,<sup>2</sup> and multiple courts have upheld local laws restricting the sale of flavored tobacco.<sup>3</sup>

## Policy Solution

A comprehensive prohibition on the sale of all flavored tobacco products provides a significant public health benefit. It may counter the tobacco industry's marketing tactics and reduce tobacco use, especially among vulnerable populations. ChangeLab Solutions' *Model California Ordinance Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products* (Model Ordinance) provides a comprehensive approach by prohibiting all tobacco retailers from selling any tobacco product that has a taste or aroma other than tobacco. The Model Ordinance's definition of tobacco products includes flavored accessories such as cigarette rolling papers and blunt wraps.

Jurisdictions with local tobacco retailer licensing (TRL) can implement and enforce these sales restrictions through licensing. The Model Ordinance recommends a 6-month delay between the day a jurisdiction adopts the ordinance and the day the prohibition goes into effect. This delay provides tobacco retailers time to sell their existing inventory of flavored tobacco and provides local government time to plan for implementation and enforcement.<sup>4</sup> Importantly, the Model Ordinance does not prohibit or penalize the purchase, use, or possession of flavored tobacco products. Only tobacco retailers who sell flavored tobacco products are subject to penalty.

<sup>4</sup> The Model Ordinance includes an optional provision to temporarily grandfather certain businesses, which exempts those businesses from complying with the flavored tobacco prohibition for an additional 6 months. Thus, certain businesses have 12 months to comply with the law following its adoption. The optional exemption applies only to tobacco retailers that primarily sell tobacco products or tobacco paraphernalia.



Communities can consider non-comprehensive restrictions, too. However, because these restrictions may not apply to all stores, they may have a smaller public health benefit and cost more to implement and enforce. For example, a jurisdiction can prohibit sales within a certain distance of youth-populated areas, such as schools (creating a "buffer zone"), or allow sales only in certain types of stores, such as those *primarily* selling tobacco. However, buffer zones require additional resources to develop and keep maps of youth-populated areas and tobacco retailers up to date. Moreover, communities must ensure the local government, business community, and general public know which retailers are restricted from selling flavored tobacco. Communities considering approaches like these should consider increased implementation costs and potential enforcement challenges.

## Conclusion

Menthol cigarettes and other flavored tobacco products pose a significant threat to health, especially for populations targeted by the tobacco industry, such as youth, low-income communities, communities of color, and the LGBTQ community. Local governments can promote health and equity by prohibiting the sale of menthol cigarettes and other flavored tobacco products. They can use ChangeLab Solutions' *Model Ordinance* and request *technical assistance* from ChangeLab Solutions.

*ChangeLab Solutions is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*

*This fact sheet was made possible by funds received from Grant Number 09-11182 with the California Department of Public Health, California Tobacco Control Program.*

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<sup>1</sup> Farley SM, Johns M. New York City flavoured tobacco product sales ban evaluation. *Tob Control*. February 2016;tobaccocontrol-2015-052418. doi:10.1136/tobaccocontrol-2015-052418.

<sup>2</sup> 21 U.S.C. § 387p(a)(1).

<sup>3</sup> U.S. Smokeless Tobacco Mfg. Co. v. City of New York, 708 F.3d 428 (2d Cir. 2013); Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence, R.I., 731 F.3d 71 (1st Cir. 2013); Indep. Gas & Serv. Stations Ass'ns, Inc. v. City of Chi., 112 F.Supp.3d 749 (N.D. Ill. 2015).







# Flavored Tobacco Products



## Fact Sheet

**Overview:** In the United States (U.S.), consumption of flavored tobacco products such as cigars, cigarillos, smokeless tobacco, shisha or hookah tobacco, and liquid nicotine solutions (used in electronic smoking devices) have increased in recent years [1]. These products come in a variety of flavors including chocolate, berry, cherry, apple, wintergreen, and peach [2] and are sold in colorful packaging, which make them especially appealing to young people. There is growing concern that flavored tobacco products help users develop habits that can lead to long term nicotine addiction [3].

## Types of Flavored Products

### Cigars

There are three types of cigars sold in the U.S.: little cigars, which are the same size and shape as cigarettes; cigarillos, which are a slimmer version of large cigars and usually do not have a filter; and large cigars, which are larger and weigh more than little cigars and cigarillos [4].

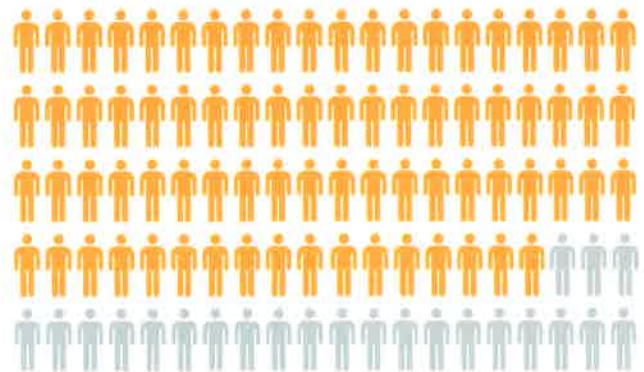


Cigars are the second most common form of tobacco used by youth [5]. Many of the brands that are popular among youth come in flavors such as apple, chocolate, grape, and peach [6], while other less traditional flavors are branded with appealing names like “Fruit Squirts,” “Waikiki Watermelon,” “Tutti Frutti,” “Blue Water Punch,” “Oatmeal Cookie,” and “Alien Blood” [7].

A recent study found that more than 87 percent of adolescents who used cigarillos in the past 30 days used flavored cigarillos [8].

Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophagus cancer [9]. Heavy cigar use and deep inhalation has also been linked to elevated risk of heart disease and chronic obstructive pulmonary disease [10].

Cigars contain higher levels of nitrosamines—which are compounds that cause cancer—more tar, and higher concentrations of toxins than cigarettes [11].



**87%** of adolescents who used cigarillos in the past 30 days used flavored cigarillos.

## Smokeless Tobacco

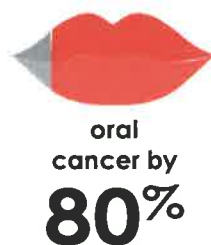


Smokeless tobacco products include chewing tobacco, dip, snuff, and snus and come in flavors such as mint, wintergreen, berry, cherry, and apple [12].

These products contain at least 28 carcinogens [13] and have been shown to cause gum disease and cancers of the mouth, lip, tongue, cheek, throat, stomach, pancreas, kidney, and bladder [14].

Smokeless tobacco products increase the risk of developing oral cancer by 80 percent, and esophageal and pancreatic cancer by 60 percent [15].

### Smokeless tobacco products increase the risk of developing



oral cancer by **80%**



esophageal cancer by **60%**



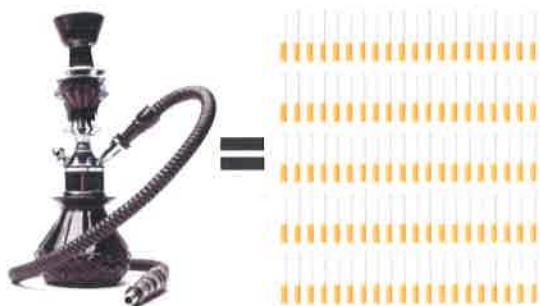
pancreatic cancer by **60%**

## Shisha or Hookah Tobacco

Shisha is also known as hookah, water pipe, narghile, or goza tobacco and is available in an array of fruit, alcoholic beverage, and herbal flavors [12].

Hookah smoking has been associated with lung cancer, respiratory illness, and periodontal disease [9].

Many young adults falsely believe that hookah smoking is safer than cigarette smoking [16]. However, smoking hookah for 45 to 60 minutes can be equivalent to smoking 100 or more cigarettes [17].



**Smoking hookah for 45 to 60 minutes can be equivalent to smoking 100 or more cigarettes**

One hookah session delivers approximately 125 times the smoke, 25 times the tar, 2.5 times the nicotine and 10 times the carbon monoxide as a single cigarette [18].

A 2014 study found that teens who use hookah are two-to-three times more likely to start smoking cigarettes or to become current smokers than teens who have not tried hookah [19].

## Liquid Nicotine Solution

Liquid nicotine solution, also called “e-juice” or “e-liquid,” is used in electronic smoking devices such as e-cigarettes.

There are more than 7,000 e-liquid flavors [20] including cotton candy, gummy bear, and chocolate mint, as well as flavors named after brand name candy and cereal products such as Wrigley’s Big Red Gum and Quaker Oats’ Cap’n Crunch [21].



E-liquids, when heated, form an aerosol that emits toxic chemicals known to cause cancer, birth defects, and other reproductive harm [22].

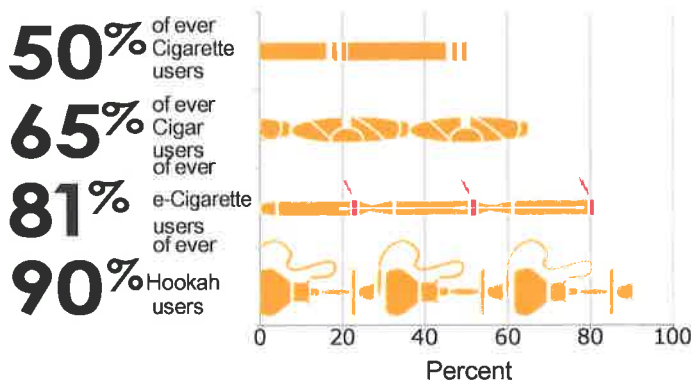
E-liquid solutions contain varying concentrations of nicotine, ranging from no nicotine to 100 mg per milliliter (a milliliter is approximately a fifth of a teaspoon). The lethal dose of nicotine is estimated to be 60 mg or less for an adult and 10 mg for a child. The toxicity of a 60 mg dose of liquid nicotine is similar to or even higher than that of cyanide [23].

## Using Flavored Tobacco Products

Recent declines in the prevalence of cigarette smoking among youth have coincided with an increased use of e-cigarettes and hookah tobacco [24]. In the U.S., cigarettes are prohibited from containing flavors other than menthol; however, other tobacco products such as e-cigarettes and hookah tobacco are exempt from this regulation.

A 2015 study of adolescents ages 12 to 17 found that among those who self-reported ever experimenting with tobacco, the majority started with a flavored product. It also found that most current youth tobacco users reported use of flavored products [25].

Teens report that their tobacco use typically started with a flavored tobacco product. One study reported that almost 90 percent of ever hookah users, 81 percent of ever e-cigarette users, 65 percent of ever users of any cigar type, and 50 percent of ever cigarette smokers said the first tobacco product they used was flavored [25].



**said the first tobacco product they used was flavored**

A study conducted by the Centers for Disease Control and Prevention (CDC) found that more than two out of every five middle and high school students who smoke reported either using flavored little cigars or flavored cigarettes [26].

A 2014 CDC survey of U.S. youth found that 70 percent of U.S. middle and high school tobacco users have used at least one flavored tobacco product in the past 30 days [1].



**Two out of every five middle and high school students who smoke reported either using flavored little cigars or flavored cigarettes**

This survey also found that 18 percent of all high school students in the U.S. reported using at least one flavored tobacco product in the last 30 days [1]. Among current middle and high school tobacco users, more than 63 percent had used a flavored e-cigarette, more than 60 percent had used flavored hookah tobacco, and more than 63 percent had used a flavored cigar in the past 30 days [1].

Findings from the 2015 nationwide Monitoring the Future study found that about 40 percent of all students in 8th,

10th, and 12th grades who used vaporizers, such as e-cigarettes, said that they used them because the flavors tasted good, compared to the 10 percent that used them in an attempt to quit smoking combustible cigarettes [27].

## Flavored Tobacco Products are Heavily Marketed to Young People [28] with Sweet Flavors and Colorful Packaging

Flavored tobacco products are very enticing to children and even share the same names, packaging, and logos as popular candy brands like Jolly Rancher, Kool-Aid, and Life Savers [29] and gaming systems like Wii and Gameboy.

Many of the flavoring chemicals used to flavor “cherry,” “grape,” “apple,” “peach,” and “berry” tobacco products are the same ones used to flavor Jolly Rancher candies, Life Savers, Zotz candy, and Kool-Aid drink mix [29].

Tobacco companies market their products to young people through the use of youthful models, celebrities, sex appeal, and peer oriented slogans [30].

Young people are much more likely to use candy-and fruit-flavored tobacco products than adults [31].

Bright packaging and product placement at the register, near candy, and often at children’s eye-level, make tobacco flavored products very visible to kids [32].



## Flavors Make it More Enticing to Smoke Tobacco and More Difficult to Quit

Flavorings help mask the naturally harsh taste of tobacco, making flavored tobacco products more appealing to youth and easier for youth to initiate and sustain tobacco use [31].

Studies show that individuals who begin smoking at a younger age are more likely to develop a more severe addiction to nicotine than those who start later [6].

Both the U.S. Food and Drug Administration (FDA) and the Surgeon General have warned that flavored tobacco products help new users establish habits that can lead to long-term addiction [3, 6].

Not only do flavors make it easier for new users to begin smoking, but the presence of flavors like menthol in tobacco products also make it more difficult for tobacco users to quit [33].

### Flavors in tobacco products:

make it more appealing for new users to buy and smoke

mask the harsh taste of tobacco

help users establish habits that can lead to long-term addiction



## Flavored Tobacco Products are Cheaper and Sold in Smaller Packages than Cigarettes

*The tobacco industry has promoted little cigars, which are comparable to cigarettes with regard to shape, size, and packaging, as a lower cost alternative to cigarettes [34].*

While cigarettes must be sold in packs of 20, other tobacco products, like little cigars, can be purchased in quantities of one or two at a time, often for less than a dollar [32].

Price discounting has become the tobacco industry's leading method of attracting users and accounts for the largest percentage of marketing expenditures [35].

Price discounts disproportionately affect vulnerable populations including young people, racial/ethnic minorities, and persons with low incomes, as these groups are more likely to purchase tobacco products through a discount [36, 6].



Little Cigar



Cigarette

## Many Young Adults Falsely Believe that Flavored Tobacco Products are Safer than Non-Flavored Tobacco Products

*Flavored tobacco products are not only just as harmful as combustible or smokeless tobacco products, but they are also just as addictive [3].*

A recent study found that people younger than 25 years of age were more likely to say that hookahs and e-cigarettes were safer than cigarettes [37].

Many studies indicate that cigar smokers misperceive cigars as being less addictive, more “natural,” and less harmful than cigarettes [38]. The misperception among young people that other tobacco products are less harmful than cigarettes, as well as the fact that these products are less harsh to smoke and taste good, may contribute to the increase in the use of other tobacco products by youth.

A 2015 study found that only 19 percent of 8th graders believe that there is a great risk of people harming themselves with regular e-cigarette use, compared to 63 percent of 8th graders who think that there is a great risk of people harming themselves by smoking one or more packs of cigarettes a day [27].

Other tobacco products than cigarettes (OTP’s) such as little cigars, cigarillos, and hookah, like all tobacco products, contain the addictive chemical nicotine which makes them very hard to quit [39] and increases the risk of developing serious health problems including lung cancer, heart disease, and emphysema [40].

## Flavoring Chemicals in E-Cigarettes Have Been Linked to Severe Respiratory Disease

Certain chemicals used to flavor liquid nicotine, such as diacetyl, 2,3-pentanedione, and acetoin, are present in many e-liquids at levels which are unsafe for inhalation [41].

Diacetyl, 2,3-pentanedione, and acetoin are used in the manufacture of food and e-liquid flavors such as butter, caramel, butterscotch, piña colada, and strawberry [7].

Diacetyl, when inhaled, is associated with the development of the severe lung condition bronchiolitis obliterans, also known as “popcorn lung,” which causes an irreversible loss of pulmonary function and damage to cell lining and airways [42].



2,3-pentanedione, a chemically similar substitute to diacetyl, caused proliferation of fibrosis connective lung tissue and airway fibrosis in an inhalation study performed on rats [43].

### A 2015 study by the Harvard School of Public Health detected



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## Tobacco Retailer Licensing Fee Calculator

- [Introduction](#)
- [Instructions](#)

### Review & Download

Congratulations! You can now view the results of all your data entry.

#### How many retailers are in your jurisdiction?

Enter in the number of tobacco retailers in your jurisdiction. The calculator will set a fee per retailer.

#### Your summary

This page displays a summary of your total costs and also separates costs based on:

- Staff costs
- Non-staff costs
- Line item categories
- Department
- Individual Staff

#### Download

At the bottom of the page, you have the option to download both the summary and full budget in comma separated value format (CSV). Depending on your browser settings, these files will either open in Excel or another spreadsheet application, or you will need to save them and then open them from that application.

Thank you for using the ChangeLab Solutions Tobacco Retailer Licensing Fee Calculator! If you have questions about the calculator or need more information, please feel free to [contact us](#) (<http://changelabsolutions.org/tobacco-control-ask-us>).

#### Did you forget something, or want to make changes?

Just click the **Previous** button at the bottom of the page or use the calculator navigation bar above to return to the appropriate pages to add to or edit your data.

#### How are staff costs calculated?

- **Overtime costs.** Overtime costs are calculated at an increased 50% hourly salary/wage rate. The hourly cost of annual benefits are not applied to overtime hours (they are only applied to regular hours).
- **Staff Cost Calculation.** The Staff Cost for each Line Item is calculated as follows.

$$\begin{aligned}
 & (\text{Regular Hours}) \times [ (\text{Salary}) / (\text{Hrs Worked/Year}) ] + \\
 & (\text{Overtime Hours}) \times (1.5) \times [ (\text{Salary}) / (\text{Hrs Worked/Year}) ] + \\
 & (\text{Regular Hours}) \times [ (\text{Annual Benefits}) / (\text{Hrs Worked/Year}) ] +
 \end{aligned}$$

Staff Cost

<http://changelabsolutions.org/publications/trl-fee-calculator-checklist> **Have you downloaded our checklist**  
<http://changelabsolutions.org/publications/trl-fee-calculator-checklist> **yet?**

It has been prepared to be used in conjunction with the fee calculator (though it can also be used separately as a reference without using the calculator). The [checklist](http://changelabsolutions.org/publications/trl-fee-calculator-checklist) (<http://changelabsolutions.org/publications/trl-fee-calculator-checklist>) is designed to help jurisdictions think through all the costs associated with a TRL ordinance, including staff and non-staff costs.  
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Per Retailer	
<b>How many tobacco retailers are within your jurisdiction?</b>	37
<b>Year 1</b>	<b>Subsequent Years</b>

	Year 1	Subsequent Years
<b>Annual TRL Fee Per Retailer</b>	<b>\$ 238.64</b>	<b>\$ 238.64</b>

### Summary

	Year 1	Subsequent Years
Total Staff Costs	\$ 8,829.68	\$ 8,829.68
Total Non-staff Costs	\$ 0.00	\$ 0.00
<b>Grand Total Cost</b>	<b>\$ 8,829.68</b>	<b>\$ 8,829.68</b>

### By Category

Name	Year 1	Subsequent Years
Establish, maintain, and administer TRL system	\$ 2,045.56	\$ 2,045.56
Enforcement: conducting compliance checks	\$ 3,428.34	\$ 3,428.34
Enforcement: after the compliance checks	\$ 2,837.14	\$ 2,837.14
Miscellaneous	\$ 518.81	\$ 518.81

### By Department

	Year 1	Subsequent Years
<b>Business License Department</b>	<b>\$ 2,203.32</b>	<b>\$ 2,203.32</b>
Staff Assistant	\$ 2,203.32	\$ 2,203.32
Non-Staff Costs	\$ 0.00	\$ 0.00
<b>Police Department</b>	<b>\$ 2,303.28</b>	<b>\$ 2,303.28</b>
Detective	\$ 2,303.28	\$ 2,303.28
Non-Staff Costs	\$ 0.00	\$ 0.00
<b>City Attorney's Office</b>	<b>\$ 692.00</b>	<b>\$ 692.00</b>
City Attorney	\$ 692.00	\$ 692.00
Non-Staff Costs	\$ 0.00	\$ 0.00
<b>Municipal Law Enforcement</b>	<b>\$ 2,892.75</b>	<b>\$ 2,892.75</b>
Patrol	\$ 2,892.75	\$ 2,892.75
Non-Staff Costs	\$ 0.00	\$ 0.00
<b>Planning Division</b>	<b>\$ 738.33</b>	<b>\$ 738.33</b>
Associate Planner	\$ 738.33	\$ 738.33
Non-Staff Costs	\$ 0.00	\$ 0.00

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# Matrix of Strong Local Tobacco Retailer Licensing Ordinances



## JUNE 2017

In order to reduce illegal sales of tobacco products to minors, many cities and counties in California have adopted strong local tobacco retailer licensing ordinances. This document highlights the 133 ordinances that are considered strong, as well as the fee and enforcement provisions. A strong local tobacco licensing law is defined as one that includes the following four components:

- Requirements that all retailers that sell tobacco products must obtain a license and renew it annually.
- A fee set high enough to sufficiently fund an effective program including administration of the program and enforcement efforts. An enforcement plan, that includes compliance checks, should be clearly stated.
- Coordination of tobacco regulations so that a violation of any existing local, state or federal tobacco regulation violates the license.
- A financial deterrent through fines and penalties including the suspension and revocation of the license. Fines and penalties should be outlined in the ordinance.

Below is a list of the 133 local ordinances in California that have met the requirements for a strong local tobacco retailer licensing ordinance along with basic information about the community population, license fee and designated

enforcement agencies. The jurisdictions are listed in alphabetical order under each county in order to make it easy to compare fee and enforcement details for similar jurisdictions.

For the table below, the agencies that enforce these ordinances have been categorized in the following way:

- **Law Enforcement:** Includes Police Departments and Sheriff Departments
- **Health Department:** Includes Environmental Health Services, Departments of Public Health, Health Services Department, and Health and Human Services Divisions.
- **City Officials:** Includes City Manager, City Attorney, and any authorized city official
- **Other:** Includes Community Development Services, Department of Finance, code enforcement agencies/ services, Administrative Services, Neighborhood Preservation Division, neighborhood services inspectors, Business License Division, and District Attorneys

Other documents on tobacco retailer licensing, including a fact sheet on the effectiveness of these ordinances, are available at: <http://Center4TobaccoPolicy.org/tobacco-policy/tobacco-retail-environment>

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
<b>Alameda County</b>							
Albany	February 2009	18,988	\$250	X			
Berkeley	December 2002	121,238	\$427*	X	X		
Hayward	July 2014	161,040	\$400				X
Oakland	April 2008	426,074	\$50**	X			
Union City	November 2010	73,452	\$665	X			
<b>Butte County</b>							
Oroville	March 2013	18,037	\$30			X	
<b>Contra Costa County</b>							
Concord	September 2006	128,370	\$160	X			
Contra Costa County	January 2003	173,454	\$287*		X		
El Cerrito	October 2015	24,600	\$485 (initial) \$439 (renew)	X			X
Richmond	June 2009	111,785	\$1,062**	X			
San Pablo	April 2004	31,053	\$170				X
<b>Fresno County</b>							
Firebaugh	August 2009	8,202	\$190	X			
Parlier	April 2012	15,500	\$200	X			
<b>Imperial County</b>							
Calexico	February 2004	40,921		X		X	
<b>Kern County</b>							
Arvin	September 2016	21,157	\$275-\$655		X		
California City	February 2007	14,248	\$275-\$655		X		
Defano	June 2008	53,152	\$275-\$655	X			
Kern County	November 2006	311,015	\$275-\$655		X		
McFarland	May 2007	14,919	\$275-\$655		X		
Shafter	November 2016	18,868	\$275-\$655		X		
Taft	August 2016	9,492	\$275-\$655		X		
Tehachapi	February 2007	12,280	\$275-\$655		X		
Wasco	March 2007	26,980	\$275-\$655		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Los Angeles County							
Baldwin Park	October 2008	75,537	\$342	X			X
Beverly Hills	August 2010	34,646		X			
Burbank	February 2007	105,033	\$300**	X			
Calabasas	June 2009	24,202	No Fee Planned*				X
Carson	November 2006	93,674	\$500	X			X
Cerritos	January 2008	50,039	\$50*	X			
Compton	July 2007	100,050	\$500	X			X
Culver City	July 2009	40,103	\$235	X			X
Duarte	May 2013	22,033	\$100	X			
El Monte	November 2011	114,268	\$300	X			X
El Segundo	June 2010	16,717	\$250	X			
Gardena	July 2008	60,721	\$120 **	X			X
Glendale	September 2007	201,748	\$255	X			
Hawaiian Gardens	July 2011	14,753	\$246				X
Hawthorne	July 2009	87,662	\$375	X			X
Huntington Park	November 2011	59,383					
Inglewood	October 2007	114,900	\$350	X			X
La Canada Flintridge	June 2009	20,497	\$50*	X		X	
Lancaster	June 2006	157,820	\$261	X			
Lawndale	October 2009	33,365	\$150				X
Lomita	May 2007	20,403	\$150	X			X
Long Beach	February 2008	480,173	\$442	X	X	X	
Los Angeles (City)	September 2005	4,041,707	\$300		X	X	X
Los Angeles County	December 2007	1,053,030	\$235	X	X		
Lynwood	October 2012	71,997	TBD			X	
Malibu	November 2011	12,742	No Fee Planned *				X
Montebello	September 2009	63,917	\$300	X			
Monterey Park	April 2010	61,606	\$40*	X			
Palmdale	January 2010	158,605	\$350			X	
Pasadena	February 2004	143,333	\$225	X	X		
San Fernando	October 2008	24,486	\$250				X
San Gabriel	March 2010	41,020	\$300	X			
Santa Monica	November 2008	93,834	\$135			X	

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Sierra Madre	November 2006	11,010	\$30	X			
South Pasadena	February 2009	25,992	\$150				X
Temple City	December 2012	36,389	\$320 (initial) \$75 (renew)	X			
<b>Marin County</b>							
Marin County	May 2012	69,214	\$25		X		
Mill Valley	September 2012	14,910	\$25	X			
Novato	January 2017	54,522	\$50 or less			X	
San Rafael	August 1991	60,842	\$48 (initial) \$10 (renew)				X
<b>Mendocino County</b>							
Fort Bragg	December 2012	7,772	\$183				X
Mendocino County	April 2010	59,668	\$290		X		
Ukiah	December 2012	16,314	\$35	X			X
Willits	October 2003	4,928	\$75		X		
<b>Modoc County</b>							
Alturas	February 2017	2,660	\$100				X
<b>Monterey County</b>							
Carmel-By-The-Sea	June 2013	3,842	\$286	X	X		
Monterey	November 2014	28,828	\$286	X	X		
Monterey County	May 2012	107,009	\$286	X	X		
Salinas	January 2015	162,470	\$286	X	X		
<b>Nevada County</b>							
Grass Valley	November 2009	12,859	\$100	X			
Nevada City	November 2006	3,208	\$100	X			
<b>Orange County</b>							
Santa Ana	October 2006	341,341	\$635	X	X		
<b>Riverside County</b>							
Banning	August 2006	31,068	\$350		X		
Beaumont	December 2006	46,179	\$350		X		
Calimesa	June 2007	8,637	\$350		X		
Canyon Lake	June 2009	10,891	\$350				X
Coachella	July 2007	45,551	\$350		X		
Corona	October 2005	167,759	\$350		X		
Desert Hot Springs	August 2007	29,111	\$350		X		

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
Eastvale	October 2010	64,613	\$350		X		
Hemet	March 2008	81,868	\$350		X		
Jurupa Valley	September 2011	101,315	\$350		X		
Lake Elsinore	August 2007	62,092	\$350		X		
Menifee	December 2009	90,660	\$350		X		
Moreno Valley	September 2007	206,750	\$350		X		
Murrieta	May 2006	114,914	\$350		X		
Norco	March 2006	26,882	\$350		X		
Perris	August 2008	75,739	\$350		X		
Riverside (City)	May 2006	326,792	\$350		X		
Riverside County	January 2010	373,755	\$350		X		
San Jacinto	June 2006	47,925	\$350		X		
Temecula	June 2006	111,024	No Fee Planned*	X			
Wildomar	July 2008	35,782	\$350		X		
<b>Sacramento County</b>							
Elk Grove	September 2004	171,059	\$270	X			
Rancho Cordova	February 2005	73,872	\$287	X			
Sacramento (City)	March 2004	493,025	\$300	X			X
Sacramento County	May 2004	584,729	\$324	X	X		
<b>San Benito County</b>							
Hollister	May 2006	36,677	\$269	X			X
<b>San Diego County</b>							
El Cajon	June 2004	102,803	\$675				X
San Marcos	July 2016	94,042	\$190	X			
Solana Beach	July 2009	13,527	\$110 **				X
Vista	May 2005	101,797	\$250	X			
<b>San Francisco County</b>							
San Francisco	November 2003	874,228	\$175 **	X	X		
<b>San Luis Obispo County</b>							
Arroyo Grande	February 2005	17,736	\$208	X			
Grover Beach	September 2005	13,438	\$224	X			
San Luis Obispo (City)	August 2003	46,724	\$278	X			
San Luis Obispo County	October 2008	120,549	\$342	X			

Community	Date Passed	Population	Fee	Designated Administration/Enforcement Agencies			
				Law Enforcement	Health Department	City Officials	Other
<b>San Mateo County</b>							
Pacifica	February 2008	38,124	\$300	X			X
<b>Santa Barbara County</b>							
Carpinteria	April 2013	13,943	\$379	X	X		
Goleta	May 2014	31,760	\$534	X	X		
Santa Barbara County	November 2010	143,439	\$409*	X	X		
<b>Santa Clara County</b>							
Campbell	December 2012	42,726	\$51	X			
Gilroy	November 2014	55,936	\$100	X			
Los Gatos	May 2017	31,314	TBD			X	
Morgan Hill	April 2014	44,145	\$125				
Santa Clara County	November 2010	87,764	\$425	X	X		
Saratoga	June 2015	30,569	\$50*	X			X
<b>Santa Cruz County</b>							
Santa Cruz (City)	October 2012	65,070	\$425	X			
Santa Cruz County	April 2011	136,193	\$318	X	X		
Scotts Valley	December 2015	12,163	\$150	X			
Watsonville	October 2012	53,015	\$255-\$382				X
<b>Sonoma County</b>							
Healdsburg	November 2014	11,800	\$445	X			
Sonoma	June 2015	10,989	\$246	X			
Sonoma County	April 2016	151,371	\$350		X		
<b>Stanislaus County</b>							
Riverbank	July 2010	24,610	\$25-\$200	X			X
<b>Ventura County</b>							
Oxnard	February 2012	207,772	\$51*				X
<b>Yolo County</b>							
Davis	August 2007	68,740	\$344		X		X
Winters	January 2016	7,255	\$344		X		X
Woodland	June 2015	59,616	\$360				X
Yolo County	May 2006	30,122	\$344		X		X

\*City or County fee does not fully cover administration and enforcement of the tobacco retailer license. Rather, the fee is supplemented with another stable source of funds, such as Master Settlement Agreement (MSA) funds or general funds.

\*\* Fees may have additional restrictions, charges or may be combined with another fee.

Sources: Population figures are from California Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — Jan. 1, 2016 and 2017.

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Targeted Policies	Products Covered by Policy	Menthol Included	Effective Date	Requirements	Notes	Enforcement
<p><b>Berkeley</b> Municipal Code Chapter 9.80</p>	<p>Prohibits the sale of flavored tobacco products, including menthol cigarettes, within a 600 foot buffer Zone of a school (public and private K-12 with at least 25 students enrolled)</p>	<p>All Flavored tobacco products, including e-cigarettes and menthol cigarettes</p>	<p>Yes</p>	<p>Adopted: September 2015 Effective: January 2017</p>	<p>Only applies to retailers within 600 feet of schools  Medical cannabis dispensaries are not required to have a tobacco retail license (TRL) to sell electronic smoking devices (ESDs) or other tobacco paraphernalia if not accompanied by any tobacco product</p>	<p>No new TRLs may be issued to a pharmacy or renewed by a pharmacy  No new TRLs may be issued within 600 feet of school</p>	<p>No  Environmental Health staff is responsible for enforcement  Upon a finding by the City of a license violation within any five-year period, the license may be suspended for up to 30 days/1<sup>st</sup> violation, 90 days/2<sup>nd</sup> violation, 1 year/3<sup>rd</sup> violation, and revoked upon 4<sup>th</sup> violation</p>
<p><b>Contra Costa</b> County Ordinance No. 2017-201</p>	<p>Prohibits the sale of flavored tobacco products, including menthol cigarettes, within 1,000 feet of schools, parks, playgrounds and libraries in the unincorporated areas of the county</p>	<p>All Flavored tobacco products, including e-cigarettes and menthol cigarettes</p>	<p>Yes</p>	<p>Adopted: July 18, 2017 Effective: August 17, 2017</p>	<p>Only applies to retailers within 1,000 feet of schools, parks, playgrounds and libraries</p>	<p>Part of a larger set of restrictions on tobacco sales and retailers in the unincorporated areas of the county, which also includes:</p> <ul style="list-style-type: none"> <li>• A prohibition on the sale of all flavored tobacco products, including menthol cigarettes, within 1,000 feet of schools, parks, playgrounds and libraries</li> <li>• A prohibition on the sale of tobacco products in pharmacies</li> <li>• A minimum pack size of 10 for little cigars and cigarillos, unless the sales price of one cigar is over \$5</li> <li>• No new tobacco retail licenses will be granted to businesses located within 1,000 feet of schools, parks, playgrounds or libraries, or within 500 feet of another business that sells tobacco</li> <li>• A cap on the total number of tobacco retailers</li> <li>• A requirement that tobacco retailers comply with storefront signage laws and drug paraphernalia laws under the Tobacco Retailer License</li> </ul>	<p>No  A tobacco retailer's license may be suspended for any violation of the ordinance  A tobacco retailers license may be suspended for up to 30 days for a 1<sup>st</sup> violation, up to 90 days for a 2<sup>nd</sup> violation that occurs within five years after the first violation, and for up to one year for a 3<sup>rd</sup> violation and for each subsequent violation that occurs within five years after the first violation</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Essence of Policy	Products Covered by Policy	Menthol Included	Effective Date	Compliance	Notes	Enforcement	Grandfathering
<p><b>El Cerrito</b>  <a href="#">Ordinance No. 2015-08</a></p>	<p>Prohibits the sale of all flavored non-cigarette tobacco products, including menthol non-cigarette tobacco products, within the city limits</p>	<p>All flavored non-cigarette tobacco products, including e-cigarettes, including menthol non-cigarette tobacco products (excludes menthol cigarettes)</p>	<p>Yes (only for non-cigarette tobacco products)</p>	<p>Adopted: October 2015                      Effective: January 1, 2018</p>	<p>Menthol cigarettes are not included in restrictions</p>	<p>Existing retailers have a two-year grace period to comply with the ordinance                       No new license may be issued to authorize tobacco retailing within five hundred (500) feet of schools, youth sensitive locations (parks and playgrounds, libraries), residential zones, or other tobacco retailers. Tobacco retailers already in operation are exempt                       Single cigar sales prohibited, package of cigars must have at least 5 cigars (except single cigars over \$5)                       Tobacco samples &amp; coupon prohibited (except as allowed in adult-only businesses per state and federal law)                       Self-service displays of tobacco products prohibited                       Hookah, lounges, cigar lounges, vape shops, or similar establishments are prohibited within the city                       New tobacco retailers may not operate as a "Significant Tobacco Retail Establishment" (use over 20% of the store display area for or derive over 50% of gross sales receipts from tobacco products or smoking paraphernalia); existing tobacco retailers may seek an exception                       *There shall be a presumption that a tobacco retailer in possession of four (4) or more flavored tobacco products, which shall include individual flavored tobacco products, packages of flavored tobacco products, or any combination thereof, possesses such flavored tobacco products with intent to sell or offer for sale*</p>	<p>Required TRL has a \$485 initial fee and a \$439 annual renewal fee                       The annual license fee is intended to cover the actual costs for the City to conduct compliance checks and enforcement operations, issue annual license and administer the program overall. The first violation is a suspension of sales privileges for 10 days                       Compliance monitored and enforced by the City's Community Development Department, in conjunction with the El Cerrito Police Department. Compliance checks conducted at least once every 12 months                       Community Development Director, Chief of Police has right to enter and inspect tobacco retailers                       TRL may be suspended or revoked accordingly for violations within a 5 year period: 10 days for 1<sup>st</sup> violation; 30 days for 2<sup>nd</sup> violation; 60 days for 3<sup>rd</sup> violation; additional penalties for selling tobacco at retail without a valid TRL                       Penalty of \$250-\$1000 fine per violation</p>	<p>Existing establishments within a certain distance of schools, youth sensitive areas and other tobacco retailers are allowed to continue to operate but they must comply with all other TRL requirements. The sale of Flavored Tobacco Products are prohibited citywide though the City's Tobacco Retailer Licensing Ordinance</p>



California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Content of Policy	Problems Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement
<p><b>Hayward</b>  <a href="#">Municipal Code Sec. 10-1.2780</a>                      See also <a href="#">Frequently Asked Questions found <a href="#">here</a></a></p>	<p>Prohibits the sale of flavored tobacco products within a 500-foot radius of schools for new tobacco retailers (established after the passage of this policy)</p>	<p>All flavored non-cigarette tobacco products, including e-cigarettes and menthol non-cigarette tobacco products (excludes menthol cigarettes)</p>	<p>Yes (only for non-tobacco products)</p>	<p>Adopted: July 1, 2014                      Effective: August 1, 2014</p>	<p>Menthol cigarettes are not included in restrictions. Retailers that sold provisions took effect are exempt. Restrictions only apply to retailers within 500 feet of school and do not apply to existing retailers</p>	<p>Prohibits sale of single cigars under \$5 or cigar packages containing fewer than 5 cigars                      No new tobacco retailers or new sales of flavored tobacco within 500 feet of a public or private K-12 school                      Vapor bars, lounges, smoking device bars and electronic smoking device lounges, and hookah bars and lounges are prohibited in all zoning districts</p>	<p>Regulations are enforced by the City's Planning Director, in conjunction with the City's Code Enforcement Division and the Hayward Police Department                      The Code Enforcement Supervisor will conduct a compliance check visit to each Tobacco Retail Sales Establishment at least once per 12 month period                      Any Tobacco Retail Sales Establishment that violates regulations in ordinance 3 times within a 3-year period shall be subject to revocation of its Tobacco Retail License and/or its conditional use permit</p>
<p><b>Los Gatos</b>  <a href="#">Ordinance No. 7259</a></p>	<p>Limits the sale of flavored tobacco products, including menthol tobacco products and cigarettes, to adult-only tobacco stores</p>	<p>All flavored tobacco products, including e-cigarettes and menthol cigarettes</p>	<p>Yes</p>	<p>Adopted: May, 16 2017                      Effective: January 1, 2018</p>	<p>Revised ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow minors, do not sell food or beverages, and post a sign outside saying that minors are prohibited</p>	<p>TRL language is a replica of the Santa Clara County TRL                      Prohibits the sale or transfer of tobacco products to anyone under the age of 21 (no exemption for military personnel)                      Prohibits the sale of tobacco products in pharmacies                      Prohibits new tobacco retailing within 1,000 feet of a school                      Prohibits any new tobacco retailers within 500 feet of another tobacco retailer</p>	<p>Yes; buffer zone restrictions do not apply to retailers operating as of specific dates (retailers of tobacco products operating prior to January 2011 and retailers of electronic smoking devices operating prior to August 2014 exempted)                      Compliance will be monitored by the Town or its Designee; a peace officer may enforce the provisions in this policy                      The Town or Designee will check each retailer at least one per 12-month period                      For any violation of the TRL within a 12-month period, fines include: a fine not to exceed \$100 for a first violation; a fine not to exceed \$200 for a second violation; a fine not to exceed \$500 for each additional violation                      For any violation of the TRL within a 24-month period, permit suspension include: permit suspension for up to 30 calendar days for a first violation; permit suspension for up to 90 calendar days for a second violation; permit suspension for up to one year for each additional violation</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Enforcement	Notes
<p><b>Manhattan Beach</b>  <a href="#">Ordinance No. 15-0020</a></p>	<p>Limits the sale of flavored tobacco (with the exception of menthol) to adult-only tobacco stores</p>	<p>All flavored non-cigarette tobacco products, including e-cigarettes (menthol excluded)</p>	<p>No</p>	<p>Adopted: December 2015                      Effective: January 1, 2016</p>	<p>Flavored tobacco products may still be sold in adult-only tobacco stores</p>	<p>Self-service displays prohibited, except for ESDs sold by 1) a retailer that primarily sells tobacco products and/or ESDs, 2) generates over 60% of its gross revenues annually from the sale of tobacco products, tobacco paraphernalia, or ESDs, 3) does not allow persons under 18 to enter the premises, 4) does not sell alcoholic beverages or food for consumption on the premises, and 5) posts a sign outside the establishment that informs the public that persons under 18 are prohibited from entering                       No tobacco retailer permit may be issued within 500 feet of a school or an existing retailer</p>
<p><b>Oakland</b>                      Ordinance No. TBD</p>	<p>Limits the sale of flavored tobacco to adult-only tobacco stores</p>	<p>All flavored non-cigarette tobacco products, including e-cigarettes and menthol flavored tobacco products (including cigarettes)</p>	<p>Yes</p>	<p>Adopted: TBD                      Effective: July 1, 2018</p>	<p>Flavored tobacco products may still be sold in adult-only tobacco stores</p>	<p>An amendment allows clerks aged 18 and older to sell tobacco                       Tobacco retailers may not sell tobacco products at a discount less than full retail price, including honoring or redeeming coupons</p>
					<p>The City will check each retailer at least once per 12-month period                       The retail permit may be revoked or suspended for two or more violations within a 36-month period                       The City will not issue or renew a retailer permit until all fees for license are paid</p>	<p>No</p>
					<p>The City designates the Department to enforce the provisions of this Ordinance</p>	<p>No</p>
					<p>A. After a first alleged violation of this Chapter at a location within any sixty-month (60) period:</p>	<p>1 an agreement to stop acting as a Tobacco Retailer for at least one (1) day;                      2 a settlement payment to the City of at least one thousand dollars (\$1,000); and                      3 an admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations</p>
					<p>B. After a second alleged violation of this Chapter at a location within any sixty-month (60) period:</p>	<p>1 an agreement to stop acting as a Tobacco Retailer for at least ten (10) days;                      2 a settlement payment to the City of at least five thousand dollars (\$5,000); and                      3 an admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Restrictions	Notes	Enforcement	Compliance
<p><b>Novato</b> Ordinance No. 1615</p>	<p>Prohibits the sale of all flavored tobacco (with the exception of menthol) products, including marijuana, within the city limits</p>	<p>All flavored tobacco products, including e-cigarettes and marijuana (menthol excluded)</p>	<p>No</p>	<p>First adopted: January 31, 2017 Effective: January 1, 2018</p>	<p>The Tobacco product consists of: 1) a package of cigars containing at least 5 cigars 2) a single cigar for which the retail price exceeds five dollars 3) pipe tobacco 4) a package of chewing tobacco or snuff containing at least five units or more</p>	<p>Minimum pack size requirements prohibit the sale of single cigars, a package of cigars containing fewer than five cigars, or any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer  No pharmacies may sell tobacco products</p>	<p>Compliance will be monitored by the Department.  Any peace officer may enforce the penal provisions of the ordinance  The Department may work with Marin County Tobacco Program to inspect each tobacco retailer at least one time per 12 month period  Penalties for a violation within any 60-month period include a 30-day license suspension for a first violation, a 90-day suspension for a second violation, a one-year suspension for a third violation, and the license will be revoked after four or more violations</p>	<p>No</p>
<p><b>San Francisco</b> Ordinance No. 140-17</p>	<p>Prohibits the sale of all flavored tobacco products, including menthol cigarettes, within the county limits</p>	<p>All flavored tobacco products, including e-cigarettes and menthol cigarettes</p>	<p>Yes</p>	<p>Adopted: June 27, 2017 Effective: April 1, 2018</p>	<p>None</p>	<p>This policy is an amendment of the Health Code, Article 190, not connect to a tobacco retail license  A tobacco product is determined to have a Characterizing Flavor if it has the presence of "a distinguishable taste or aroma or both, other than the taste or aroma or tobacco, imparted by the tobacco product or any byproduct produced by the tobacco product"  There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including but not limited to, text, color, and/or images on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has characterizing flavor.</p>	<p>The Director, or his or her designee, may enforce Sections 190.3 and 190.4 pursuant to Articles 19 et seq. of the Health Code, including but not limited to Article 19H.  Upon a decision by the Director that the Permittee or the Permittee's agent or employee has engaged in any conduct that violates Health Code Section 190.3 (Sale or Distribution of Flavored Tobacco Products Prohibited) or 190.4, the Director may suspend a Tobacco Sales permit as set forth in Section 19H.19.</p>	<p>No</p>
<p><b>Santa Clara County</b> Ordinance No. NS-300-853 Revised Ordinance 300-903 effective July 2017</p>	<p>Limits the sale of flavored tobacco products, including menthol tobacco products and cigarettes, to adult-only tobacco shops in the unincorporated areas of the County</p>	<p>All flavored tobacco products, including e-cigarettes and menthol cigarettes</p>	<p>Yes (revised in 2016 to include menthol)</p>	<p>First adopted: June 2015 Effective: January 1, 2016 Revised version effective: July 2017</p>	<p>Revised ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow minors, do not sell food or beverages, and post a sign outside saying that minors are prohibited</p>	<p>Department of Environmental Health, the Department or other designated person shall check each retailer at least once per 12 month period  Penalties for violations within a 12-month period not to exceed \$100/1<sup>st</sup> violation, \$300/2<sup>nd</sup> violation; \$500/additional violation; licensee may furthermore be suspended for violations within any 24-month period: 1<sup>st</sup>90 days, 2<sup>nd</sup>90 days, additional violations/up to one year</p>	<p>Department of Environmental Health, the Department or other designated person shall check each retailer at least once per 12 month period  Penalties for violations within a 12-month period not to exceed \$100/1<sup>st</sup> violation, \$300/2<sup>nd</sup> violation; \$500/additional violation; licensee may furthermore be suspended for violations within any 24-month period: 1<sup>st</sup>90 days, 2<sup>nd</sup>90 days, additional violations/up to one year</p>	<p>Yes, buffer zone restrictions do not apply to retailers operating as of specific dates (retailers of tobacco products operating prior to January 2011 and retailers of electronic smoking devices operating prior to August 2014 exempted)</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Town or City	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Penalties
<b>Sonoma</b> <a href="#">Menthol Code Chapter 7-23</a>	Prohibits the sale of all flavored tobacco (with the exception of menthol) products within the city limits	All flavored non-cigarette tobacco products, including e-cigarettes (menthol excluded)	No	Adopted: April 2015 Effective: September 2015	Products with tobacco and menthol flavors Pipe tobacco Cigars, chewing tobacco or snuff in packages containing 5 or more units Single cigars for which the price exceeds \$5	Sale of single cigars under \$5 and cigars in packages of fewer than 5 cigars prohibited A list of locations eligible to apply for a tobacco retailer license is provided in the ordinance; only the specific addresses on the list may be issued a license	Devoey enforcement operations conducted annually by Sonoma Police department Code Enforcement Officer from Planning Department provides spot checks Citations of violations processed by administrative hearing officer or the County Court system depending on the type of violation Penalties range from \$250-\$1000 and suspension/revocation of license if found guilty within a 60-month period (1 <sup>st</sup> violation: 30 day suspension; 2 <sup>nd</sup> : 60 days; 3 <sup>rd</sup> : 1 year; 4 <sup>th</sup> : license revoked)	No
<b>West Hollywood</b> <a href="#">Ordinance No. 16-991</a>	Prohibits the sale of all flavored tobacco products (including flavored tobacco) within 600 feet of a youth-populated area (school, youth center, child-care facility, etc.)	All tobacco products, other than flavored cigarettes, within the buffer zone	Yes	Adopted: October 2016 Effective: November 2016	Tobacco retailers operating prior to May 1, 2016, adult-only facilities, and hotels that sell tobacco products as part of incidental sales on the premises	Flavored tobacco products, including menthol, included in the definition of "tobacco products"; buffer zone prohibition not specified for flavored tobacco but for all "tobacco retailers" No new tobacco retailer licenses may be issued for tobacco retailers within 600 feet of a school No new licenses may be issued for tobacco product shops within 1000 feet of a youth-populated area Little cigars must be sold in pack size of at least 20	Any member of the West Hollywood Code Compliance Division, Alcohol Beverage Control Department, and the Los Angeles County Sheriff's Department, or their designees are authorized to monitor and enforce the provision Enforcement Officials must inspect each tobacco retailer at least twice per 12 month period	Yes, existing retailers operating prior to May 1, 2016 are grandfathered regardless of any change or transfer of ownership of the business
<b>Yolo County</b> <a href="#">Ordinance No. 1474</a>	Prohibits the sale of all flavored tobacco products, including menthol cigarettes, within the unincorporated areas of the County	All Flavored tobacco products, including e-cigarettes and menthol cigarettes	Yes	Adopted: October 2016 Effective: May 1, 2017	None	Only existing tobacco retailers are eligible for a tobacco license	Yolo County District Attorney in charge of suits for any violation of the TRL (including selling flavored tobacco or menthol products) For any violation of TRL, penalties for violations within a 5 year period include: 1 <sup>st</sup> violation license revoked for 10 days, 2 <sup>nd</sup> violation license revoked for 90 days, 3 <sup>rd</sup> violation license revoked for 1 year	No



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Law & policy innovation for the common good.

# Model California Ordinance Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products

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## Introduction and Report

This Model California Ordinance Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products (Model Ordinance) is one potential policy intervention to reduce the consumption of tobacco products. It is based on ChangeLab Solutions' legal research and analysis, as well as the research and evidence base regarding consumption of tobacco products and the rising popularity of flavored tobacco products. The Model Ordinance should complement other policy and programmatic efforts to reduce tobacco use.

This version of the Model Ordinance (revised in June 2017) includes the following changes from the previous version: (1) It prohibits the sale of flavored cigarettes (including menthol cigarettes), and (2) it provides an optional provision to grandfather certain businesses, which exempts those businesses from complying with the flavored tobacco prohibition for a limited period of time.

The Introduction and Report section summarizes our nonpartisan analysis of the health, equity, and policy issues related to the use and sale of menthol cigarettes and other flavored tobacco products, and it outlines why it is important to restrict the sale of such products. It should be distributed broadly to the public and local groups to help people understand the relevant data and the purpose of developing a policy restricting the sale of menthol cigarettes and other flavored tobacco products.

This Model Ordinance, including this Introduction and Report, is based on our independent and objective analysis of the relevant law, evidence, and available data. It allows readers to draw their own conclusions about the merits of this Model Ordinance.

The Model Ordinance offers a variety of options. In some instances, blanks (e.g., [ \_\_\_\_ ] ) prompt you to customize the language to fit your community's needs. In other cases, the ordinance offers you a choice of options (e.g., [ choice one / choice two ] ). Some of the options are followed by a comment that describes the legal provisions in more detail. Some degree of customization is always necessary to make sure that the ordinance is consistent with a community's existing laws. Your city attorney or county counsel will likely be the best person to check this for you.

## Background

In 2009, the federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) banned the manufacture of flavored cigarettes. However, the law contains an exception for menthol cigarettes and does not restrict flavored non-cigarette tobacco products, such as smokeless tobacco. Moreover, California doesn't have any state laws that regulate the sale of menthol cigarettes or flavored non-cigarette tobacco products.

Flavored tobacco products are considered “starter” products that help establish long-term tobacco use, and they are particularly appealing to youth.<sup>1</sup> These products also pose significant barriers to achieving health equity. Thanks to tobacco companies’ marketing efforts, youth, communities of color, low-income populations, and members of LGBTQ communities are significantly more likely to use flavored tobacco products, particularly menthol cigarettes, and disproportionately bear the burden of tobacco-related harm.

This Model Ordinance restricts the sale of all flavored tobacco products, including the following:

- (1) Flavored cigarettes already prohibited by the Tobacco Control Act;
- (2) Menthol cigarettes;
- (3) Flavored other tobacco products (OTPs), such as cigars, little cigars, cigarillos, smokeless tobacco, shisha (hookah tobacco), electronic smoking devices (ESDs), and the solutions used in ESDs; and
- (4) Flavored components, parts, and accessories, such as flavored rolling papers, filters, and blunt wraps.

## Menthol Cigarettes

For decades, tobacco companies have added menthol—a crisp, minty flavoring—to their products. By adding menthol to cigarettes, tobacco companies mask the natural harshness and taste of tobacco. The minty flavor makes tobacco products more mild, and therefore easier to use and more appealing to youth and new users.<sup>2,3</sup>

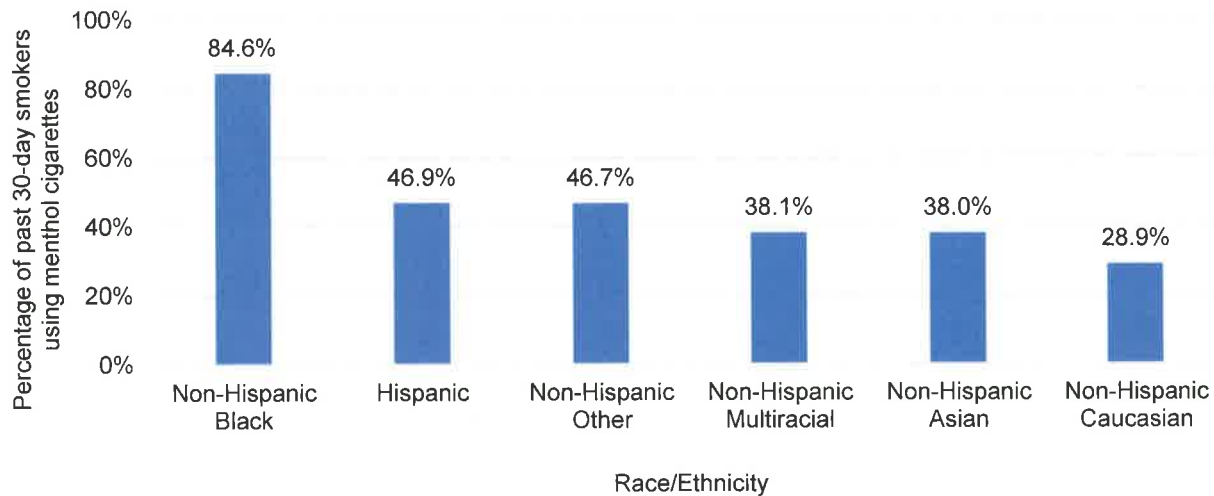
Tobacco companies have manipulated the amount of menthol in cigarettes to encourage many people—particularly youth and populations targeted by the tobacco industry—to start and continue using tobacco.<sup>4,1</sup> Smoking menthol cigarettes is associated with increased use of cigars and smokeless tobacco products,<sup>5</sup> and it reduces the likelihood of successfully quitting smoking.<sup>3,6</sup> Indeed, despite decreases in overall cigarette use in recent years, the proportion of cigarette smokers who use menthol cigarettes continues to rise.<sup>5</sup> In 2014, more youth smokers used menthol cigarettes than non-mentholated cigarettes.<sup>5</sup> Moreover, a 2017 study reported an increase in menthol cigarette use among youth cigarette smokers following the 2009 federal ban on flavored non-menthol cigarettes.<sup>7</sup>

Scientific reviews by the Tobacco Products Scientific Advisory Committee (TPSAC) and the US Food and Drug Administration (FDA) found that the marketing of menthol cigarettes likely increases the prevalence of smoking among the entire US population, and especially among youth, African Americans,<sup>3</sup> and possibly Hispanic and Latino populations.<sup>6</sup> Indeed, these groups bear the burden of menthol cigarette use: 84.6% of non-Hispanic Black smokers in the US reported smoking menthol cigarettes in the last month, in addition to 46.9% of Hispanic smokers, 38.1% of non-Hispanic multiracial smokers, 38% of non-Hispanic Asian smokers, and 46.7% of other smokers with non-Hispanic, non-Caucasian racial/ethnic backgrounds.<sup>5</sup> Members of LGBTQ communities and young



adults with mental health conditions also struggle with disproportionately high rates of menthol cigarette use.<sup>8,9</sup>

**Use of Menthol Cigarettes Among Past 30-Day Smokers in the USA, 2012-2014<sup>5</sup>**



Tobacco companies have helped create and exacerbate these disparities. The tobacco industry has a well-documented history of developing and marketing menthol tobacco products to communities of color and youth.<sup>10,11</sup> One analysis of cigarette advertising, promotions, and pack prices at stores near California high schools found that “for each 10 percentage point increase in the proportion of Black students, the proportion of menthol advertising increased by 5.9% ... the odds of a Newport [a leading brand of menthol cigarettes] promotion were 50% higher ... and the cost of Newport was 12 cents lower.”<sup>12</sup> There was no such association found for non-mentholated cigarettes.<sup>12</sup> Similarly, a New York study found that promotions that reduce the price of menthol cigarettes are disproportionately targeted to youth.<sup>13</sup>

## Other Flavored Tobacco Products

In addition to selling menthol cigarettes, tobacco companies have developed flavored OTPs that have the same youth-friendly characteristics as the banned flavored cigarettes. For example, many of the cigar brands that are popular among teens are available in flavors such as apple, chocolate, grape, and peach.<sup>14</sup> In fact, cigars follow only ESDs and cigarettes as the third most common form of tobacco used by youth.<sup>15</sup> Smokeless tobacco products, including chewing tobacco, snuff, and snus, come in flavors such as mint, wintergreen, berry, cherry, and apple<sup>16</sup> to mask the harsh taste of tobacco.<sup>14,17</sup> Hookah tobacco (shisha) is available in an array of fruit, herbal, and alcoholic beverage flavors, and there is a strong—and false—perception among young people that smoking hookah is safer than smoking cigarettes.<sup>18</sup> Nicotine solutions, also known as e-liquids and which are consumed via ESDs such as electronic

cigarettes, are sold in dozens of flavors that are attractive to youth, such as cotton candy and bubble gum.<sup>19</sup>

Consumption of flavored tobacco products has grown in recent years. From 1995 to 2008, sales of little cigars increased by 316%,<sup>20</sup> and in 2014, “flavored cigars accounted for more than half of all cigar sales (53.3%).”<sup>21</sup> A 2009-2010 survey found that 42.9% of adult cigar smokers used flavored cigars,<sup>2</sup> and a 2014 survey found that 66.4% of people who smoked little cigars or cigarillos used flavored products.<sup>22</sup> In 2014, nearly two-thirds of US middle school and high school cigar smokers reported using flavored cigars, and more than 1.5 million students reported using a flavored ESD within the past 30 days.<sup>23</sup> Moreover, a 2013-2014 survey found higher rates of flavored cigar use among vulnerable populations, including “cigar smokers with lower income, with less education and those who were lesbian, gay or bisexual.”<sup>24</sup>

Like menthol, flavorings such as chocolate or apple help mask the naturally harsh taste of tobacco, making it easier for young people to start and continue using tobacco products.<sup>2</sup> In fact, a 2013-2014 survey found that “80.8 percent of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product.”<sup>25,26</sup> Policy interventions that target youth tobacco use are particularly critical because most individuals start using tobacco as minors or young adults.<sup>27</sup> In California, 64% of smokers start smoking by age 18, and 96% start smoking by age 26.<sup>28</sup> Compared with individuals who start smoking later in life, individuals who start smoking at a young age are at increased risk for severe addiction to nicotine.<sup>14</sup>

OTPs pose a threat to public health for several reasons. One major concern is that many users, especially young people, assume that OTPs do not pose significant health risks. Research shows that cigar smokers have misconceptions about the safety of cigars; for example, they often believe cigars are less harmful and less addictive than cigarettes.<sup>20</sup> Studies have found that young people believe smoking hookah is safer than smoking cigarettes, and incorrectly believe that hookah smoke is less toxic than cigarette smoke.<sup>29,30</sup> Moreover, 58.8% of 12th-grade students report that they *don't* believe regular use of smokeless tobacco presents a great risk of harm.<sup>27</sup> The misperception among many young people that OTPs do not present significant health risks, coupled with the fact that many OTPs are flavored, may contribute to increased use of these products among young people.

Despite these misconceptions, the FDA has stated that “[a]ll tobacco products, including flavored tobacco products, are as addictive and carry the same health risks as regular tobacco products.”<sup>31</sup> Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophagus cancers.<sup>32</sup> Hookah use has been associated with lung cancer, respiratory illness, and periodontal disease.<sup>33</sup> Smokeless tobacco contains at least 28 carcinogens, and there is strong evidence that users have an increased risk of developing oral cancers.<sup>14</sup> The Surgeon General has reported that e-cigarettes “contain harmful ingredients that are dangerous to youth” and that e-cigarette aerosol “can contain

harmful and potentially harmful constituents.”<sup>34</sup> Moreover, multiple studies have confirmed that e-cigarette vapor contains toxic substances.<sup>35–37</sup> To reduce the health impacts of menthol cigarette use and OTP use, communities can adopt policy interventions to regulate tobacco industry efforts that encourage youth, low-income populations, and communities of color to use mentholated and flavored products.

## Considerations When Regulating Flavored Tobacco Products

A combination of strategies can protect youth from using tobacco and reduce industry-driven health inequities. Many communities are exploring programmatic and policy approaches to address the chronic health conditions associated with tobacco use. Some viable approaches are requiring local tobacco retailer licenses, limiting tobacco retailer density, setting minimum package sizes, and restricting the distribution of free or low-cost tobacco products. ChangeLab Solutions has developed this Model Ordinance as one tool to help communities reduce tobacco use, particularly among young people and vulnerable populations.

Policies that regulate the sale of flavored tobacco products can raise tensions between the government’s duty to protect individual liberty and its duty to promote and protect public health and well-being. Tobacco industry representatives and retailer associations have argued that there are already laws that prohibit the sale of tobacco products to youth. However, despite youth access laws, young people continue to buy and use tobacco products. Indeed, overall youth tobacco use didn’t change significantly between 2011 and 2015, with a 2015 survey reporting that nearly one-third (31.4%) of high school students used cigarettes, cigars, smokeless tobacco, or ESDs in the 30 days preceding the survey.<sup>15</sup> In particular, young people are using a variety of OTPs:

- In 2015, 10.3% of high school students reported using cigars, cigarillos, or little cigars.<sup>15</sup>
- Youth hookah use increased more than 75% from 2011 to 2015, and youth ESD use increased more than tenfold during the same period.<sup>38</sup>
- The percentage of high school students using smokeless tobacco products increased from 6.4% in 2012<sup>39</sup> to 7.3% in 2015.<sup>15</sup>
- A significant percentage of youth cigarette smokers concurrently use OTPs, increasing their risk for addiction and other health problems.<sup>14</sup>
- In a 2013-2014 survey, more than two-thirds of youth who used a non-cigarette tobacco product within the past 30 days reported doing so “because they come in flavors I like.”<sup>26</sup>

Due to industry practices, individuals from communities of color, particularly young adults of color, are also more likely to use OTPs, such as little cigars.<sup>40</sup> In addition, a study found that daily menthol cigarette users are significantly more likely than occasional, non-menthol smokers to use flavored little cigars and cigarillos.<sup>41</sup> African Americans and other communities of color are burdened with

disproportionately high rates of menthol cigarette use; this data, coupled with the findings from the study mentioned above, suggest that these populations are also more likely to use flavored little cigars and cigarillos. Many of these disparities are likely the result of tobacco companies' efforts to make these products more available, more heavily advertised, and cheaper in African American communities.<sup>42</sup> Accordingly, interventions such as a flavored tobacco restriction, may be necessary to regulate the marketing and sale of flavored tobacco products, including menthol cigarettes, to youth and in communities of color.

Tobacco industry representatives have asserted that laws restricting the sale of flavored tobacco products overreach because they strip adults of the ability to buy lawful flavored products that they may prefer to non-flavored products. Additionally, retailer associations have asserted that laws restricting flavored tobacco products will result in lost revenues for local businesses. Local policymakers have discretion to assess whether the public health risks presented by flavored tobacco products are significant enough that the sale of these products should be regulated, even if such a regulation restricts the ability of adults to purchase these products or results in reduced tobacco sales for local retailers.

Congress grappled with this issue in enacting the Tobacco Control Act. They ultimately determined that the government couldn't meet the Act's goals of reducing the use of, dependence on, and social costs associated with tobacco products by allowing unrestrained access to all tobacco products. For that reason, Congress banned flavored cigarettes except menthol-flavored cigarettes (eg, fruit- and candy-flavored cigarettes), finding that a ban was appropriate given the strong youth appeal of these products.<sup>43</sup>

Similarly, the US Court of Appeals for the Second Circuit found that New York City's flavored tobacco law advanced the Tobacco Control Act's goals of reducing the use of tobacco products and the harms resulting from such use.<sup>44</sup> Restricting the sale of flavored tobacco products is also consistent with the California legislature's decision in 2001 to ban the sale of *bidis*—hand-rolled filterless cigarettes that were sold in a variety of candy flavors. Although tobacco industry groups argued that the California bill overreached by prohibiting bidi sales to adults, state lawmakers decided to ban bidis based on the need to “reduce youth access to a particularly harmful and addictive form of tobacco.”<sup>45</sup>

## Legal Issues

Below we discuss some of the key legal issues associated with this Model Ordinance.

### Federal Preemption

Preemption is a legal doctrine that provides that a higher level of government may limit, or even eliminate, the power of a lower level of government to regulate a certain issue. Under the US Constitution's “Supremacy Clause,” federal law governs over state or local law. So, if a state or local law conflicts with a federal law, the federal law trumps the lower-level law.

Tobacco industry groups and manufacturers have argued that the Tobacco Control Act, which prohibits the manufacture of flavored cigarettes (except menthol), preempts local regulation of flavored tobacco products. However, US cities have implemented ordinances restricting the sale of flavored tobacco products, including menthol cigarettes and/or flavored OTPs, and these ordinances have survived preemption challenges.

In 2009, New York City passed an ordinance restricting the sale of flavored OTPs. A smokeless tobacco manufacturer filed a lawsuit arguing that the Tobacco Control Act preempts localities from passing their own laws regulating flavored tobacco products. An appellate court upheld the ordinance, finding that federal law did not preempt New York City's ordinance because the ordinance regulated *the sale* of tobacco products, not the manufacture of those products.<sup>44</sup>

In January 2012, Providence, RI, passed a similar law restricting the sale of flavored OTPs. Tobacco industry groups and manufacturers filed a lawsuit claiming that the Tobacco Control Act preempted the ordinance. A federal district court upheld the Providence law. The court found that the Tobacco Control Act does not preempt local laws related to the sale of tobacco products, such as Providence's ordinance restricting the sale of flavored OTPs. On September 30, 2013, the US Court of Appeals for the First Circuit affirmed the district court's decision.<sup>46</sup>

In December 2013, Chicago passed a law prohibiting the sale of all flavored tobacco products, including menthol cigarettes, within 500 feet of any school. A trade group sued Chicago over the law, claiming that the Tobacco Control Act preempted the ordinance. On June 29, 2015, a US District Court in Illinois upheld the law, finding that the Tobacco Control Act does not preempt local laws that restrict the sale of menthol cigarettes and flavored OTPs.<sup>47</sup>

Taken together, the decisions from Chicago, New York City, and Providence reaffirm the authority of state and local governments to enact laws regulating the sale of tobacco products and to adopt restrictions that are more stringent than federal law.

## First Amendment

The First Amendment of the US Constitution protects the right to freedom of speech. Courts have determined that advertising and marketing are forms of expressive conduct—they communicate information about products to consumers. Thus, advertising, or commercial speech, is considered a type of speech under the First Amendment. For this reason, advertising has some degree of protection against government regulation; laws that attempt to restrict marketing, promotional content, or similar types of communication may not be permissible.

Under this Model Ordinance, a tobacco product is presumed to be flavored and cannot be sold if the text or images on its labeling or packaging indicate that the product imparts a flavor, taste, or aroma other

than that of tobacco. In Providence, tobacco industry groups argued that a similar provision in the city's ordinance was a marketing restriction that implicated the First Amendment. The Providence ordinance provides that a public statement made by a manufacturer that a tobacco product has a characterizing flavor constitutes presumptive evidence that the product is a flavored tobacco product. A federal court rejected the industry's First Amendment argument, finding that the use of a public statement made by a manufacturer to determine whether a product is flavored does not amount to a prohibition against speech.

The court noted that the sale of a flavored tobacco product in Providence is illegal, regardless of whether the product is specifically described as a flavored tobacco product. In other words, the court found that manufacturers are still free to describe their products as having a characterizing flavor, even though their flavored tobacco products cannot be sold in Providence. Thus, challenges to flavored tobacco regulations on First Amendment grounds have not been successful thus far.

## Conclusion

Research has shown that cigarette and OTP use have serious health consequences. Young people are much more likely than adults to use menthol-, candy-, and fruit-flavored tobacco products, including cigarettes and OTPs. These products are considered “starter” products that help establish long-term tobacco use. Moreover, flavored tobacco products, particularly menthol cigarettes, pose significant barriers to achieving health equity. Thanks to tobacco companies' marketing efforts, communities of color, low-income populations, and LGBTQ communities are significantly more likely to use menthol cigarettes and disproportionately bear the burden of tobacco-related harm. Policy interventions designed to regulate products that get people hooked on tobacco, such as restrictions on the sale of flavored tobacco products, can directly address the public health and equity consequences associated with tobacco use.

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# AN ORDINANCE OF THE [ CITY / COUNTY ] OF [ \_\_\_\_ ] RESTRICTING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS AND AMENDING THE [ \_\_\_\_ ] MUNICIPAL CODE

The [ City Council of the City / Board of Supervisors of the County ] of [ \_\_\_\_ ] does ordain as follows:

**COMMENT:** This is introductory boilerplate language that should be adapted to the conventional form used in the jurisdiction.

## SECTION I. [ See **Appendix A: Findings** ]

**COMMENT:** A draft ordinance based on this Model Ordinance should include findings of fact—data, statistics, relevant epidemiological information, for instance—that support the purposes of this legislation. The findings section is part of the ordinance and legislative record, and it contains information explaining the health and equity issues that the law would help address. A list of findings supporting this Model Ordinance appears in “Appendix A: Findings” on page 22. Jurisdictions may select findings from that list to insert here, along with additional findings on local or regional conditions, outcomes, and issues that help make the case for the law.

**SECTION II.** [ Article / Section ] of the [ \_\_\_\_ ] Municipal Code is hereby amended to read as follows:

**Sec. [ \_\_\_\_ (\*1) ]. DEFINITIONS.** The following words and phrases, whenever used in this [ article / chapter ], shall have the meanings defined in this section unless the context clearly requires otherwise:

**COMMENT:** Some terms defined in this Model Ordinance may already be defined in the jurisdiction’s municipal code. Include only the definitions that are necessary, and review all definitions for consistency. For example, the definition of Tobacco Product below covers a broad range of tobacco products (including electronic smoking devices), and may be more expansive than an existing definition in the municipal code. In restricting the sale of flavored tobacco products, jurisdictions with an existing definition of Tobacco Product need to decide whether to use this Model Ordinance’s definition or rely on their current definition. A jurisdiction is allowed to use different definitions of Tobacco Product in separate sections of its municipal code. However, to avoid confusion, the jurisdiction should make clear which sections of the municipal code are governed by a particular definition.

- (a) “Characterizing Flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.
- (b) “Flavored Tobacco Product” means any Tobacco Product that imparts a Characterizing Flavor.

**COMMENT:** This definition of Flavored Tobacco Product includes cigarettes. Federal law already prohibits the manufacture of flavored cigarettes, but it excludes menthol cigarettes from its prohibition. This Model Ordinance is more restrictive than federal law because it prohibits both the sale of menthol cigarettes and the sale of other flavored tobacco products. Below are some examples of the types of products prohibited by this Model Ordinance.

- Menthol cigarettes, roll-your-own tobacco, and components (eg, menthol flavored rolling papers and filters intended for use with roll-your-own cigarettes)
- All other flavored cigarettes, roll-your-own tobacco, and components (eg, flavored rolling papers and filters intended for use with roll-your-own cigarettes)
- Flavored cigars and little cigars
- Flavored smokeless tobacco
- Flavored electronic smoking devices
- Flavored non-cigarette components, parts, and accessories (eg, flavored blunt wraps and flavored additives for e-liquids)

- (c) “Labeling” means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.
- (d) “Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.
- (e) “Packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

- (f) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (g) “Tobacco Paraphernalia” means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.
- (h) “Tobacco Product” means:
- (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff;
  - (2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
  - (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, “Tobacco Product” includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

**COMMENT:** This definition of Tobacco Product is designed to cover a wide variety of tobacco products, including cigarettes, cigars, smokeless tobacco, shisha (hookah tobacco), electronic smoking devices, and the solutions and component parts that are used in these devices. The definition includes electronic smoking devices with or without nicotine. The definition also includes any component, part, or accessory normally used with a Tobacco Product.

- (i) “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. “Tobacco Retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of Tobacco Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

Sec. [ \_\_\_\_ (\*2) ]. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED

- (a) It shall be a violation of this [ article / chapter ] for any Tobacco Retailer or any of the Tobacco Retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.

**COMMENT:** Some communities have created "buffer zones" by prohibiting the sale of flavored tobacco products within a specific distance of youth-populated areas, such as schools. For example, Berkeley, CA, and Chicago, IL prohibit the sale of flavored tobacco products, including menthol cigarettes, within 600 feet of any school and within 500 feet of any high school, respectively. Although these buffer zones are an important intervention, they're not comprehensive prohibitions on flavored tobacco product sales.

Communities can consider similar policies, but they should weigh the benefits and drawbacks of implementing a non-comprehensive flavored tobacco prohibition. A buffer zone approach may not provide the same public health benefits as a comprehensive, communitywide flavored tobacco restriction. Moreover, local jurisdictions that create buffer zones will likely face increased costs for implementation and potential enforcement challenges. For example, before a community can implement a buffer zone, it must conduct mapping surveys to determine the location of schools and tobacco retailers and measure the distances between them. Communities must routinely update the maps to reflect changes that affect where flavored tobacco products may be sold (eg, if a school opens, closes, or relocates). Developing and updating these maps may require significant resources.

Local jurisdictions must also educate tobacco retailers and the general public on how to determine whether a store is located within a buffer zone that prohibits the sale of flavored tobacco. This may include developing appropriate tools and resources for tobacco retailers to determine whether their store is within a buffer zone.

Despite these considerations, buffer zones remain a viable policy option for communities. If your community is interested in adopting a flavored tobacco product buffer zone, contact ChangeLab Solutions for assistance. This is introductory boilerplate language that should be adapted to the conventional form used in the jurisdiction.

- (b) There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to sell or offer for sale.
- (c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:



- (1) made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
- (2) used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or
- (3) taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

-----OPTIONAL PROVISION-----

[ (d) A Tobacco Retailer lawfully operating as of the date this ordinance is adopted is exempt from subsection (a) for a period of up to [ 6 months ] from the effective date of this ordinance, provided that all of the following requirements are met:

- (1) Within [ thirty (30) days ] of the effective date of this ordinance, the Tobacco Retailer submits to the [ City Manager / County Manager ] written notice that it seeks temporary exemption from subsection (a) and documentation that demonstrates: (i) the Tobacco Retailer was lawfully operating as of the date this ordinance was adopted; (ii) [ seventy percent (70%) ] or more of gross sales receipts are derived from Tobacco Products, Tobacco Paraphernalia, or both, or [ fifty percent (50%) ] or more of completed sales transactions include Tobacco Products, Tobacco Paraphernalia, or both; and (iii) the amortization period afforded by the [ 6-month ] period for the effectiveness of the ordinance adopting this section is insufficient to allow the Tobacco Retailer to sell, return to the distributor or wholesaler, or otherwise obtain the benefit of, property which has no lawful use by virtue of the ordinance adopting this section. The submission shall include all information and documentation the [ City Manager / County Manager ] may request to determine the Tobacco Retailer's qualifications for this exemption.
- (2) The [ City Manager / County Manager ] determines the Tobacco Retailer meets the qualifications set forth in [ subsection (d)(1) ].
- (3) The Tobacco Retailer submits all information and documentation requested by the [ City Manager / County Manager ] to determine continued qualification for this exemption. This exemption to subsection (a) shall not apply if the [ City Manager / County Manager ] determines that the Tobacco Retailer no longer meets the qualifications set forth in [ subsection (d)(1) ].
- (4) The [ City Manager / County Manager ] shall offer the Tobacco Retailer an opportunity for an oral or paper hearing and render a written decision on the record of that hearing.

That decision shall be final as to the [ City / County ] and subject to judicial review pursuant to Code of Civil Procedure section 1094.5. ]

**COMMENT:** This Model Ordinance provides a 6-month delay between when a jurisdiction adopts the ordinance and when the flavored tobacco prohibition goes into effect (see “SECTION IV. Effective Date” on page 21). This delay provides all tobacco retailers with a 6-month period to sell their remaining inventory of flavored tobacco products. The delay also provides the local government with time to plan for implementation and enforcement.

The optional provision above (subsection (d)) temporarily grandfathers certain tobacco retailers, which exempts them from having to comply with the flavored tobacco prohibition in subsection (a) for an additional limited period of up to 6 months. Thus, a local jurisdiction that includes the optional subsection (d) above is granting certain tobacco retailers a period of 12 months in which to comply with the prohibition following the adoption of the ordinance (6 months is allowed for all tobacco retailers pursuant to SECTION IV on page 21, and an additional 6 months is allowed for certain tobacco retailers pursuant to subsection (d) above). The exemption in subsection (d) applies only to tobacco retailers that primarily sell tobacco products and/or tobacco paraphernalia, as specified above (we refer to these businesses informally as “significant tobacco retailers”). To qualify for the exemption in subsection (d), a retailer must meet the following requirements.

**Requirements to Qualify for the Exemption:**

- (1) The Tobacco Retailer submits a written notice indicating a request for temporary exemption and documentation that demonstrates the following:
  - (a) The Tobacco Retailer was lawfully operating on the date the ordinance was adopted;
  - (b) 70% or more of gross sales receipts are derived from the sale of Tobacco Products, Tobacco Paraphernalia, or both, or 50% or more of completed sales transactions are derived from the sale of Tobacco Products, Tobacco Paraphernalia, or both; and
  - (c) The amortization period (see explanation below) provided between the date of adoption and the effective date is insufficient to allow the Tobacco Retailer to sell or return its inventory of prohibited Flavored Tobacco Products.
- (2) The government determines the Tobacco Retailer meets these qualifications and grants it an additional 6 months to comply with the prohibition.

Importantly, this exemption lapses if at any time the government determines the tobacco retailer no longer meets these qualifications. The government’s decision is not subject to an internal appeal, but it can be reviewed in court under the administrative mandamus statute.

Jurisdictions seeking the maximum public health impact from this Model Ordinance should not insert this optional provision. Many public health laws take effect immediately and apply to all existing businesses without exception. The findings in this Model Ordinance (page 22) explain how a flavored tobacco prohibition protects public health, and in particular, how it protects youth from the significant harms of tobacco use. Exempting businesses, even temporarily, can slow progress and undermine the benefits of this Model Ordinance.

### Takings

Sometimes government staff ask whether applying a prohibition on flavored tobacco sales to existing businesses is a taking. A taking is a restriction on private property—which, in this case, is flavored tobacco products—that is so burdensome that a court determines that the government must pay just compensation for the property (because the government has effectively “taken” the property). Whether a law amounts to a taking is case-specific—it depends on the business—and the burden of proof falls on the business. In most settings, allowing the regulated business a reasonable time (typically a few months) to amortize the value of any investment in property—selling any remaining flavored tobacco products, for instance—that cannot be used after the prohibition takes effect prevents a taking.

An amortization period gives certain existing businesses a period of time to do business as usual before they must make changes to comply with a new law. Amortization periods are constitutional ways for local governments to balance the public interest and any financial impact on a private business. These periods are often short, measured in months, not years. It is important to note that the financial impact is less severe for a business that sells many other products in addition to tobacco products (eg, convenience stores and grocery stores), and that inventory can be returned to the wholesaler or resold for retail sale outside the city or county adopting the prohibition. Moreover, the time between adoption of an ordinance and its effective date is sufficient to amortize minor investments in inventory and signage. For these reasons, the optional temporary grandfathering provision applies only to tobacco retailers that sell a significant amount of tobacco products and/or tobacco paraphernalia; these businesses may be most affected by a flavored tobacco prohibition. Nevertheless, a flavored tobacco prohibition does not require businesses to close, or even to stop selling all tobacco products. It is a reasonable restriction on a type of tobacco product that is particularly harmful, especially to youth. Examples of reasonable amortization periods in different contexts include the following.

- An amortization period of 1 to 4 years is sufficient for a billboard removal ordinance. *Metromedia, Inc. v. City of San Diego*, 28 Cal.3d 848, 882 (1980), reversed on other grounds, 453 U.S. 490 (1981).
- An amortization period of 32 months is sufficient to amortize a billboard. *People ex. rel. Department of Pub. Wks. v. Adco Advertisers*, 35 Cal.App.3d 507 (1979). (Note: Amortization is often litigated in the context of billboards.)
- An amortization period of 18 months is sufficient to terminate operation of an automobile wrecking yard. *People v. Gates*, 41 Cal. App. 3d 590 (1974).
- An amortization period of 20 months is sufficient to change or relocate an adult entertainment business. *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004).
- An amortization period of 24 months is sufficient to terminate operation of a cement batching plant that invested \$98,000 (1950 dollars) in the business. *Livingston Rock & Gravel Co. v. Los Angeles County*, 43 Cal. 2d 121 (1954).

Notably, a federal district court upheld a San Francisco law prohibiting the sale of all tobacco products in pharmacies and requiring that pharmacies comply by the effective date of the ordinance. In other words, the law didn’t grant an amortization period. The court explained that

the ordinance “merely regulates the sale of tobacco products; it does not force Plaintiff to engage in a certain type of business.” The court further concluded that “although Plaintiff has alleged it has a vested property right in its [tobacco retailer] permits, it cannot overcome the fact that the enactment of the amended ordinance was a reasonable and permissible use of Defendants’ police power.” *Safeway Inc. v. City & Cty. of San Francisco*, 797 F. Supp. 2d 964 (N.D. Cal. 2011).

-----END OPTIONAL PROVISION-----

Sec. [ \_\_\_\_ (\*3) ]. ENFORCEMENT.

- (a) The remedies provided by this [ article / chapter ] are cumulative and in addition to any other remedies available at law or in equity.

**COMMENT:** The subsections below offer a variety of enforcement options to the drafter and the enforcing agency. Drafters may choose to include some or all of these options. Once the ordinance is enacted, the enforcing agency has the discretion to choose which enforcement tools to use in each case. As a practical matter, these enforcement options would not be applied simultaneously, although multiple remedies might be used against a particularly egregious violator over time.

The enforcement options included in this Model Ordinance penalize Tobacco Retailers who sell or offer to sell Flavored Tobacco Products. In other words, this Model Ordinance does *not* penalize individuals for purchasing, attempting to purchase, possessing, or using Flavored Tobacco Products. Well-enforced laws targeting retailers are more effective and provide greater public health benefits than laws penalizing users. Moreover, laws penalizing purchasers and users raise significant equity concerns because their enforcement often disproportionately affects communities of color.

Some communities face challenges in enforcing their Flavored Tobacco Product ordinances. For example, enforcement officials may have trouble determining when a Tobacco Product qualifies as a Flavored Tobacco Product, particularly when the packaging and marketing materials do not explicitly identify a Characterizing Flavor (eg, Tobacco Products using “concept flavors” like “Arctic” and “Lightning”). Communities should consider potential challenges and develop guidelines for staff enforcement. If your community is concerned about enforcement, please contact ChangeLab Solutions for assistance.

- (b) Violations of this [ article / chapter ] are subject to a civil action brought by the [ City Prosecutor / District Attorney ] or the [ City Attorney / County Counsel ], punishable by a civil fine not less than [ two hundred fifty dollars (\$250) ] and not exceeding [ one thousand dollars (\$1,000) ] per violation.

**COMMENT:** This provision outlines the civil fines for violations of the ordinance. It requires the





city or county file a traditional civil suit. The fine amounts can be adjusted but cannot exceed \$1,000 per violation. Government Code section 36901.

- (c) Violations of this [ article / chapter ] may, at the discretion of the [ City Prosecutor / District Attorney ], be prosecuted as infractions or misdemeanors when the interests of justice so require.

**COMMENT:** Sometimes called a “wobbler,” this provision affords the prosecuting attorney discretion to pursue a violation as an infraction (like a parking ticket) or a misdemeanor (a crime punishable by up to a \$1,000 fine and/or 6 months in a county jail). Alternatively, violations can be set as either an infraction or a misdemeanor in all circumstances. Fines and other criminal penalties are established by the Penal Code and are typically reflected in the general punishments provision of a local code.

**SECTION III. SEVERABILITY.** 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 / Board of Supervisors ] of the [ City / County ] of [ \_\_\_\_\_ ] hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

**COMMENT:** This is standard language. Often this “boilerplate” is found at the end of an ordinance, but its location is irrelevant.

**SECTION IV. EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after [ 6 months after date of enactment ].

**COMMENT:** This section specifies the effective date of the ordinance, and it should be tailored to give the enforcing agency adequate time to educate tobacco retailers and the general public. The agency should also use this time to determine enforcement protocols for flavored tobacco products. General law cities and counties in California must provide a minimum of 30 days between an ordinance’s adoption and its effective date.

## Appendix A: Findings.

The [ City Council of the City / Board of Supervisors of the County ] of [ \_\_\_\_ ] hereby finds and declares as follows:

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>1</sup> largely because these flavored products were marketed to youth and young adults,<sup>2</sup> and younger smokers were more likely than older smokers to have tried these products;<sup>3</sup> and

WHEREAS, although the manufacture and distribution of flavored cigarettes (excluding menthol) are banned by federal law,<sup>4</sup> neither federal law nor California law restricts the sale of menthol cigarettes or flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, electronic smoking devices, and the solutions used in these devices; and

WHEREAS, flavored tobacco products are very common in California tobacco retailers as evidenced by the following:

- 97.4% of stores that sell cigarettes sell menthol cigarettes;<sup>5</sup>
- 94.5% of stores that sell little cigars sell them in flavored varieties;<sup>6</sup>
- 84.2% of stores that sell electronic smoking devices sell flavored varieties;<sup>7</sup> and
- 83.8% of stores that sell chew or snus sell flavored varieties;<sup>8</sup> and

WHEREAS, more than 1 in 4 stores located within 1,000 feet of California schools sell tobacco, and more than 3 out of 4 of these tobacco retailers sell flavored tobacco products (not including mentholated cigarettes);<sup>9</sup> and

WHEREAS, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco<sup>10</sup> and that these products help establish tobacco habits that can lead to long-term addiction;<sup>11</sup> and

WHEREAS, at least one study has found that the majority of smokeless tobacco users reported that the first smokeless product they used was mint-flavored (such as ice, mint, spearmint, or wintergreen flavors), and almost two-thirds who transitioned to daily use of smokeless tobacco products first used a mint-flavored product;<sup>12</sup> and

WHEREAS, young people are much more likely than adults to use menthol-, candy-, and fruit-flavored tobacco products, including cigarettes, cigars, cigarillos, and hookah tobacco;<sup>13</sup> and

WHEREAS, 70% of middle school and high school students who currently use tobacco, report using flavored products that taste like menthol, alcohol, candy, fruit, chocolate, or other sweets;<sup>14</sup> and

WHEREAS, data from the National Youth Tobacco Survey indicate that more than two-fifths of US middle school and high school smokers report using flavored little cigars or flavored cigarettes;<sup>15</sup> and

WHEREAS, much of the growing popularity of small cigars and smokeless tobacco is among young adults and appears to be linked to use of flavored products;<sup>16</sup> and

WHEREAS, the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015;<sup>17</sup>

WHEREAS, nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;<sup>18</sup> and

WHEREAS, the California Attorney General has stated that electronic cigarette companies have targeted minors with fruit-flavored products;<sup>19</sup> and

WHEREAS, between 2004 and 2014 use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (ages 18 to 25) and adults (ages 26+);<sup>20</sup> and

WHEREAS, people ages 12 and older from communities of color are more likely to smoke mentholated cigarettes, as evidenced by the following percentages of people who smoke cigarettes reported smoking mentholated cigarettes in the last month:<sup>21</sup>

- 82.6% of Black or African American individuals;
- 53.2% of Native Hawaiians or Other Pacific Islanders;
- 36.9% of individuals with multiracial backgrounds;
- 32.3% of Hispanic or Latino individuals;
- 31.2% of Asian individuals;
- 24.8% of American Indians or Alaska Natives; and
- 23.8% of White or Caucasian individuals; and

WHEREAS, adding menthol and other flavorings to tobacco products, such as cigarettes, little cigars, cigarillos, and smokeless tobacco, can mask the natural harshness and taste of tobacco, making these

products easier to use and increasing their appeal among youth;<sup>22</sup> and

WHEREAS, the tobacco industry has been manipulating the dose of menthol in cigarettes to ensure the uptake and continued use of tobacco, especially by young people and vulnerable populations for many years;<sup>23</sup> and

WHEREAS, smoking mentholated cigarettes reduces the likelihood of successfully quitting smoking;<sup>24</sup> and

WHEREAS, the tobacco industry has a well-documented history of developing and marketing mentholated brands to communities of color and youth;<sup>25</sup> and

WHEREAS, a review of advertising, promotions, and pack prices near California high schools found that “for each 10 percentage point increase in the proportion of Black students, the proportion of menthol advertising increased by 5.9% ... the odds of a Newport [a leading brand of mentholated cigarettes] promotion were 50% higher ... and the cost of Newport was 12 cents lower.” There was no such association found for non-mentholated cigarettes;<sup>26</sup> and

WHEREAS, a New York study found that price reduction promotions for menthol cigarettes are disproportionately targeted to youth markets;<sup>27</sup> and

WHEREAS, scientific reviews by the Tobacco Products Scientific Advisory Committee (TPSAC) and the FDA found marketing of menthol cigarettes likely increases the prevalence of smoking among the entire population, and especially among youth, African Americans,<sup>28</sup> and possibly Hispanic and Latino individuals;<sup>29</sup>

WHEREAS, scientific studies on the impact of a national ban on menthol in cigarettes found 36.5% of menthol cigarette users would try to quit smoking if menthol was banned<sup>30</sup> and between 300,000 and 600,000 lives would be saved by 2050;<sup>31</sup> and

WHEREAS, an evaluation of New York City’s law, which prohibits the sale of all flavored tobacco, excluding menthol, found that as a result of the law, youth had 37% lower odds of ever trying flavored tobacco products and 28% lower odds of ever using any type of tobacco.<sup>32</sup>

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**CITY OF OROVILLE  
ORDINANCE NO. 1794**

**AN ORDINANCE OF THE OROVILLE CITY COUNCIL ADDING CHAPTER 12A TO THE CODE OF THE CITY OF OROVILLE AND AMENDING CHAPTER 26 AND 14 OF THE CODE OF THE CITY OF OROVILLE RELATING TO THE USE, SALE AND DISTRIBUTION OF TOBACCO AND OTHER NICOTINE RELATED SUBSTANCES AND PRODUCTS AND THE ESTABLISHMENT AND LOCATION OF SMOKE SHOPS WITHIN THE CITY LIMITS**

**WHEREAS**, based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Oroville; and

**WHEREAS**, the City Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Oroville, to protect the health, safety, and welfare of our residents; and

**WHEREAS**, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

- The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
- State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
- State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);
- State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962);
- State law prohibits the sale of "bidis" (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1); and
- State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of "roll-your-own" tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3); and

**WHEREAS**, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code § 22970.1, 22972); and

**WHEREAS**, state law explicitly permits cities and counties to enact local tobacco retail

licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

**WHEREAS**, California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of the City to regulate business activity in order to discourage violations of law; and

**WHEREAS**, a requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the City to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws; and

**WHEREAS**, the City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and in protecting children from being lured into illegal activity through the misconduct of adults; and

**WHEREAS**, pursuant to Article V of the Oroville City Charter, amendments to the City's Municipal Code may be initiated by the Oroville City Council; and

**WHEREAS**, on April 3, 2012, the City of Oroville City Council directed City staff to research and prepare a tobacco shop ordinance and development standards; and

**WHEREAS**, on October 2, 2012, the City of Oroville City Council authorized City staff to include electronic cigarettes into the City's regulations regarding tobacco and nicotine products; and

**WHEREAS**, the Oroville City Council held a noticed public hearing regarding a proposal to amend certain sections of the City of Oroville's Municipal Code to provide clarification and direction regarding the use, sell and distribution of tobacco and other nicotine related substances and products and the establishment and location of smoke shops; and

**WHEREAS**, at a noticed public hearing before the Oroville City Council the described Code amendments were considered and no adverse comments were received from the public about the described amendments; and

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

**SECTION I.** Chapter 12A of the Oroville Municipal Code is hereby adopted to read as follows:

**12A-1. DEFINITIONS.** The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

- (a) "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an Arm's Length Transaction.



- (b) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (c) "Proprietor" means a Person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.
- (d) "Self-Service Display" means the open display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.
- (e) "Smoking" (Refer to Chapter 14, Article 1, §14-21(a)(13) for definition)
- (f) "Tobacco Paraphernalia" means cigarette papers or wrappers, pipes, holders of Smoking materials of all types, cigarette rolling machines, vaporizers and any other item designed for the Smoking, preparation, storing, or consumption of Tobacco Products. For the purpose of this chapter, electronic cigarette supplies are considered tobacco paraphernalia.
- (g) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. For the purpose of this chapter, electronic cigarettes are considered a tobacco product.
- (h) "Tobacco Retailer" means any Person who sells, offers for sale, or exchanges for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

## **12A-2. REQUIREMENTS AND PROHIBITIONS**

- (a) **TOBACCO RETAILER LICENSE REQUIRED.** It shall be unlawful for any Person to act as a Tobacco Retailer in the City of Oroville without first obtaining and maintaining a valid Tobacco Retailer's license pursuant to this chapter for each location at which that activity is to occur. Tobacco Retailing without a valid Tobacco Retailer's license is a nuisance as a matter of law.
- (b) **LAWFUL BUSINESS OPERATION.** In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to Tobacco Products, Tobacco Paraphernalia, or Tobacco Retailing.

- (c) **DISPLAY OF LICENSE.** Each Tobacco Retailer license shall be prominently displayed in a publicly visible location at the licensed location.
- (d) **POSITIVE IDENTIFICATION REQUIRED.** No Person engaged in Tobacco Retailing shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.
- (e) **MINIMUM AGE FOR PERSONS SELLING TOBACCO.** No Person who is younger than the minimum age established by state law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.
- (f) **SELF-SERVICE DISPLAYS PROHIBITED.** Tobacco Retailing by means of a Self-Service Display is prohibited.
- (g) **FALSE AND MISLEADING ADVERTISING PROHIBITED.** A Tobacco Retailer or Proprietor without a valid Tobacco Retailer license, including, for example, a person whose license has been revoked:
  - (1) Shall not display any advertisement relating to Tobacco Products or Tobacco Paraphernalia that promotes the sale or distribution of such products from the Tobacco Retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

#### **12A-3. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE.**

- (a) No license issued may authorize Tobacco Retailing at any location other than a fixed location. For example, Tobacco Retailing by Persons on foot or from vehicles is prohibited.

#### **12A-4. APPLICATION PROCEDURE.**

- (a) Application for a Tobacco Retailer's license shall be submitted in the name of each Proprietor proposing to conduct retail tobacco sales and shall be signed by each Proprietor or an authorized agent thereof.

It is the responsibility of each Proprietor to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer's license. No Proprietor may rely on the issuance of a license as a determination by the City of Oroville that the Proprietor has complied with all laws applicable to Tobacco Retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a Proprietor shall be revoked.

All applications shall be submitted on a form supplied by the City of Oroville and shall contain the following information:

- (1) The name, address, and telephone number of each Proprietor of the business seeking a license.
- (2) The business name, address, and telephone number of the single fixed location

for which a license is sought.

- (3) A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this chapter. If an Authorized Address is not supplied, each Proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.
  - (4) Proof that the location for which a Tobacco Retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
  - (5) Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years.
  - (6) Such other information as the Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this section.
- (b) A licensed Tobacco Retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer's license within ten (10) business days of a change.
  - (c) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 *et seq.*) or any other applicable law, subject to the laws' exemptions.

**12A-5. ISSUANCE OF LICENSE.** Upon the receipt of a complete application for a Tobacco Retailer's license and the license fee required by this chapter, the City shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:

- (a) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.
- (b) The application seeks authorization for Tobacco Retailing for a Proprietor to whom this chapter prohibits a license to be issued.
- (c) The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this Code (e.g., zoning ordinance, building code, and business license tax ordinance), or that is unlawful pursuant to any other law.

**12A-6. LICENSE RENEWAL AND EXPIRATION.**

- (a) **RENEWAL OF LICENSE.** A Tobacco Retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a Tobacco Retailer license is one (1) year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license and submit the license fee no later than thirty (30) days prior to expiration of the term.
- (b) **EXPIRATION OF LICENSE.** A Tobacco Retailer's license that is not timely renewed

shall expire at the end of its term. To renew a license not timely renewed pursuant to subparagraph (a), the Proprietor must:

- (1) Submit the license fee and application renewal form; and
- (2) Submit a signed affidavit affirming that the Proprietor:
  - (i) has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the license expiration date and before the license is renewed.

#### **12A-7. LICENSES NONTRANSFERABLE.**

- (a) A Tobacco Retailer's license may not be transferred from one Person to another or from one location to another. A new Tobacco Retailer's license is required whenever a Tobacco Retailing location has a change in Proprietor(s).
- (b) Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:
  - (1) the location has been fully transferred to a new Proprietor or fully transferred to entirely new Proprietors; and
  - (2) the new Proprietor(s) provide the City with clear and convincing evidence that the new Proprietor(s) have acquired or is acquiring the location in an Arm's Length Transaction.

**12A-8. FEE FOR LICENSE.** The fee to issue or to renew a Tobacco Retailer's license shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

#### **12A-9. COMPLIANCE MONITORING.**

- (a) Compliance checks shall be conducted so as to allow the City to determine, at a minimum, if the Tobacco Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco. When the Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Retailing.

#### **12A-10. REVOCATION OF LICENSE.**

- (a) **REVOCATION OF LICENSE FOR VIOLATION.** In addition to any other penalty authorized by law, a Tobacco Retailer's license shall be revoked if any court of competent jurisdiction determines, or the City finds based on a preponderance of the evidence, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no

contest" or its equivalent, or admitted to a violation of any law.

**(b) NEW LICENSE AFTER REVOCATION.**

- (1) After revocation for a first violation of this chapter, no new license may be issued for the location until ten (10) days have passed from the date of revocation.
- (2) After revocation for a second violation of this chapter, no new license may be issued for the location until sixty (60) days have passed from the date of revocation.
- (3) After revocation for a third violation of this chapter, no new license may be issued for the location until one (1) year has passed from the date of revocation.
- (4) After revocation for a fourth or subsequent violation of this chapter, no new license may be issued for the location until five (5) years have passed from the date of revocation.

**(c) APPEAL OF REVOCATION.** A decision of the City to revoke a license may be appealed as specified in the Chapter 26, §26-56.100 of this Code.

**(d) REVOCATION OF LICENSE WRONGFULLY ISSUED.** A Tobacco Retailer's license shall be revoked if the City finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under this Code existed at the time application was made or at any time before the license issued. Such a revocation shall be without prejudice to the filing of a new license application.

**12A-11. TOBACCO RETAILING WITHOUT A LICENSE.**

**(a)** In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer's license, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailing license as follows:

- (1) After a first violation of this section, no new license may be issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty (30) days have passed from the date of the violation.
- (2) After a second violation of this section, no new license may issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety (90) days have passed from the date of the violation.
- (3) After a third or subsequent violation of this section at a location, no new license may be issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until five (5) years have passed from the date of the violation.

**12A-12. ENFORCEMENT.**

(a) Violations of this chapter are punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation (California Government Code Section 36901).

(b) Violations of this chapter are hereby declared to be a public nuisance.

**SECTION II.** Chapter 26 of the Code of the City of Oroville is hereby amended as follows:

(1) The following definitions will be added to §26-04.020 as follows:

**Smoke Shop:** Any establishment whose primary business purpose is to sell, offer for sale, or exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. Such businesses include head shops, hookah shops and lounges, tobacco shops, and other uses of like kind character.

**Tobacco Paraphernalia:** Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, vaporizers and any other item designed for the smoking, preparation, storing, or consumption of tobacco products. For the purpose of this chapter, electronic cigarette supplies are considered tobacco paraphernalia.

**Tobacco Product:** Any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. For the purpose of this chapter, electronic cigarettes are considered a tobacco product.

(2) Table 26-33.010-1 will be amended to include the following:

Land Use	CN	C-1	C-2	CN	CLM	OF	MXD	MXN	MXC	Use-Specific Regulations
<b>Retail</b>										
<u>Smoke Shop</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>UP</u>	<u>26-36.010-1</u>

(3) Table 26-36.010-1 will be amended to include the following:

Land Use	ABP	M-1	M-2	Use-Specific Regulations
<b>Retail</b>				
<u>Smoke Shop</u>	<u>=</u>	<u>UP</u>	<u>UP</u>	<u>26-36.010-1</u>

(4) §26-16.190 will be added as follows:

**A. Purpose.**

These regulations are intended to allow persons to establish smoke shops in the City of Oroville in a manner that protects the City's public health, safety and welfare by limiting the number of smoke shops in the City limits with respect to the City's population size.

**B. Applicability.**

1. A total of one smoke shop is allowed within City limits for every 4,000 City residents.
2. In the event that the number of existing smoke shops per every 4,000 City residents exceeds the above limit, no additional smoke shops will be allowed within City limits until the number of smoke shops fall below the above threshold as a result of:
  - Population growth within the City that would allow for an additional smoke shop to locate within City limits per the threshold above; or
  - The number of smoke shops within City limits decreases to a level that would allow for an additional smoke shop to locate within City limits per the threshold above.

Table 26-16.190-1: Number of Smoke Shops Allowed

<b><u># of City Residents (Range)</u></b>	<b><u># of Smoke Shops Allowed</u></b>
<b><u>X</u></b>	<b><u>Z</u></b>
<u>0 to 4,000</u>	<u>1</u>
<u>4,001 to 8,000</u>	<u>2</u>
<u>8,001 to 12,000</u>	<u>3</u>
<u>12,001 to 16,000</u>	<u>4</u>
<u>16,001 to 20,000</u>	<u>5</u>
<u>Etc.</u>	<u>=</u>

\*  $X / 4,000 = Z$ . If Z is not a whole number, round up to the next whole number.

**C. General Regulations.**

Smoke shops will be subject to all provisions within Chapter 12A of the Oroville Municipal Code.

**D. Permit Required**

All smoke shops are required to obtain a use permit that may include conditions necessary to ensure that the use operates in a manner that provides adequate protection of public health, safety and welfare.

**E. Criteria to Be Considered.**

In determining whether to grant a use permit for a smoke shop and what appropriate conditions should, if any, be imposed, the Planning Commission shall consider the following issues, and make appropriate findings, based on substantial evidence, for each issue:

1. The nature of all land uses within 500 feet of the proposed smoke shop, and in particular, the location of similar nearby uses and the location of residences, parks, schools and houses of worship.
2. Appropriate measures to provide proper maintenance of the building exterior, including provisions to keep the premises free of litter and debris.
3. Lighting of exterior areas, including parking lots, to discourage loitering outside of the building.
4. Protection of adjacent properties from illegal activity.
5. Hours of operation.
6. Prevention of adverse effects of the use on the value of adjacent properties.

**SECTION III.** Chapter 14 of the Code of the City of Oroville is hereby amended as follows:

- (1) Chapter 14, Article 1, §14-21(a)(13) will be amended as follows:

“Smoking” means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed, plant or other combustible substance in any manner or in any form. For the purposes of this chapter, the use of electronic cigarettes and the inhalation of their nicotine vapor shall also be classified as “smoking.”

\*\*\*\*\*



**PASSED AND ADOPTED** by the City Council of the City of Oroville at a regular meeting held this 19<sup>th</sup> day of March, 2013, by the following vote:

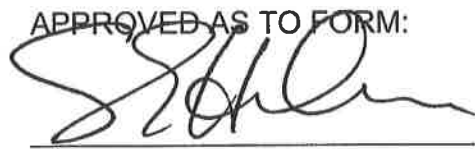
AYES: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox,  
Mayor Dahlmeier

NOES: None

ABSTAIN: None

ABSENT: None

  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:  
  
Scott E. Huber, City Attorney

ATTEST:  
  
Peter Cosentini, Interim City Clerk





# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

**Donald Rust**  
DIRECTOR

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### NOTICE OF EXEMPTION

**TO:** Butte County Clerk  
25 County Center Drive  
Oroville CA, 95965

**FROM:** City of Oroville  
1735 Montgomery Street  
Oroville, CA, 95965

Project Title: ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco

Project Location – Specific: Citywide

Project Location – City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The City is proposing to prohibit the sale of menthol cigarettes and other flavored tobacco products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement.

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: City of Oroville – Community Development Department

Exempt Status (Check One):

- Ministerial (Sec. 21080(b)(1); 15268)
- Declared Emergency (Sec. 21080(b)(3); 15269(a))
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- Categorical Exemption: State type & section number:
- Statutory Exemption: State code number:
- Other: General Rule Exemption; Title 14, CCR, §15061(b)(3)

Reasons why project is exempt: This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3), commonly known as the "general rule." A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment. Therefore, the project is exempt from the provisions of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) "General Rule Exemption."

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?  Yes  No

Lead Agency Contact Person: Luis A. Topete

Telephone: (530) 538-2408

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

- Signed by Lead Agency
- Signed by Applicant

## **RESOLUTION NO. P2017-18**

### **A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND ORDINANCE NO. 1794 FOR THE PURPOSE OF PROHIBITING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS AND INCREASE THE FEE OF A TABACOO RETAIL LICENSE**

**WHEREAS**, the federal Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), enacted in 2009, prohibited candy- and fruit-flavored cigarettes, largely because these flavored products were marketed to youth and young adults, and younger smokers were more likely than older smokers to have tried these products; and

**WHEREAS**, although the manufacture and distribution of flavored cigarettes (excluding menthol) are banned by federal law, neither federal law nor California law restricts the sale of menthol cigarettes or flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, electronic smoking devices, and the solutions used in these devices; and

**WHEREAS**, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and that these products help establish tobacco habits that can lead to long-term addiction; and

**WHEREAS**, adding menthol and other flavorings to tobacco products, such as cigarettes, little cigars, cigarillos, and smokeless tobacco, can mask the natural harshness and taste of tobacco, making these products easier to use and increasing their appeal among youth; and

**WHEREAS**, the fee to issue or to renew a Tobacco Retailer’s license shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the cost of administration and enforcement, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law; and

**WHEREAS**, at a noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the amendments to the City’s Municipal Code as described herein, and also considered City staff’s report regarding the proposed amendments.

**NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION** as follows:

**SECTION I.** This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) “General Rule Exemption.”

**SECTION II.** Amending the Municipal Code as proposed will protect the public health, safety, and welfare of the residents of the City of Oroville.

**SECTION III.** The Planning Commission hereby forwards a recommendation to the Oroville City Council to increase the fee for a Tobacco Retailer License to \$238.64 and amend the Oroville Municipal Code to read as follows, with all deletions shown in a ~~strikethrough~~ format and all additions shown in an underlined format:

*Section 5.25.010 (Definitions) is hereby amended as follows:*

**“Characterizing Flavor”** means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

**“Flavored Tobacco Product”** means any Tobacco Product that imparts a Characterizing Flavor.

**“Labeling”** means written, printed, or graphic matter upon any Tobacco Product or any of its Packaging, or accompanying such Tobacco Product.

**“Manufacturer”** means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a Tobacco Product; or imports a finished Tobacco Product for sale or distribution into the United States.

**“Packaging”** means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a Tobacco Product is sold or offered for sale to a consumer.

**“Tobacco Paraphernalia”** means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, vaporizers and any other item designed for the smoking, preparation, storing, or consumption, or use Tobacco Products. For the purpose of this chapter, electronic cigarette supplies are considered tobacco paraphernalia.

**“Tobacco Product”** means ~~any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. For the purpose of this chapter, electronic cigarettes are considered a tobacco product.~~

**“Tobacco Product”** means:

- (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff;
- (2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar,

electronic pipe, or electronic hookah.

- (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

*Chapter 5.28 (Tobacco Retailer License) is hereby amended to include the following Section:*

**Sale of Flavored Tobacco Products Prohibited**

- a) It shall be a violation of this chapter for any Tobacco Retailer or any of the Tobacco Retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any Flavored Tobacco Product.
- b) There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including but not limited to individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to sell or offer for sale.
- c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:
- (1) made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
  - (2) used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or
  - (3) taken action directed to consumers that would be reasonably expected to cause consumers to believe the Tobacco Product imparts a Characterizing Flavor.

*Section 5.28 (Enforcement) is hereby amended as follows:*

- a) The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.
- b) ~~Violations of this chapter are punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation (California Government Code Section 36901). Violations of this chapter are subject to a civil action, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.~~
- c) ~~Violations of this chapter are hereby declared to be a public nuisance. Violations of this chapter may be prosecuted as infractions or misdemeanors when the interests of justice so require.~~

*Section 17.04.060 (Definitions) is hereby amended as follows:*

**"Tobacco Paraphernalia"** means cigarette papers or wrappers, pipes, holders of smoking

materials of all types, cigarette rolling machines, vaporizers and any other item designed for the smoking, preparation, storing, or consumption, or use Tobacco Products. For the purpose of this chapter, electronic cigarette supplies are considered tobacco paraphernalia.

~~"Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. For the purpose of this chapter, electronic cigarettes are considered a tobacco product.~~

"Tobacco Product" means:

- (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff;
- (2) any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.
- (3) Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

\*\*\*\*\*



**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a special meeting of the Planning Commission of the City of Oroville held on the 14<sup>th</sup> day of December, 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST

APPROVE:

\_\_\_\_\_  
DONALD L. RUST, SECRETARY

\_\_\_\_\_  
DAMON ROBISON, CHAIRPERSON





# City of Oroville

Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### NOTICE OF PUBLIC HEARING BEFORE THE CITY OF OROVILLE PLANNING COMMISSION

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Oroville will hold a public hearing on the projects described below. Said hearing will be held at **7:00 p.m. on Thursday, December 14, 2017** in the City Council Chambers, 1735 Montgomery Street, Oroville, CA. All interested persons are invited to attend or submit comments in writing.

1. **ZC 17-01: Rezone of 1355 Washington Avenue from MXD to MXC** – The Oroville Planning Commission will review and consider sending a recommendation to the Oroville City Council to Rezone the property identified as 1355 Washington Avenue (APN: 013-030-010) from Downtown Mixed Use (MXD) to Corridor Mixed Use (MXC).
2. **ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products** – The Oroville Planning Commission will conduct a public hearing to consider sending a recommendation to the Oroville City Council to prohibit the sale of menthol cigarettes and other flavored tobacco products and increase the fee of a tobacco retail license to cover the City's cost of administration, implementation, and enforcement.

Additional information regarding the projects described in this notice can be obtained from the Oroville Community Development Department at 1735 Montgomery Street, Oroville, CA. Anyone desiring to submit information, opinions or objections is requested to submit them in writing to the Community Development Department prior to the hearing. In accordance with Government Code Section 65009, if you challenge an action on this project in court, you may be limited to raising only those issues you or someone else raised at the public meeting described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public meeting.

Posted/Published: **Monday, December 4, 2017**





# City of Oroville

Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
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### PLANNING COMMISSION STAFF REPORT

December 14, 2017

**Feather River Crossing Signage** – The Oroville Planning Commission will review and consider providing staff direction regarding the proposed signage for the repurposing of the commercial property at 355 Oro Dam Boulevard, the previous location of Walmart and future location of Feather River Crossing commercial complex.

**APPLICANTS:** N/A

**LOCATION:** 355 Oro Dam Boulevard E  
Oroville, CA 95965  
APN: 035-030-080

**GENERAL PLAN:** Retail and Business Services  
**ZONING:** Intensive Commercial (C-2)  
**FLOOD ZONE:** ZONE X: Areas determined to be outside the 0.2% annual chance floodplain.

**ENVIRONMENTAL DETERMINATION:** N/A

**REPORT PREPARED BY:**

Luis A. Topete, Associate Planner  
Community Development Department

**REVIEWED BY:**

Donald Rust, Director  
Community Development Department

### RECOMMENDED ACTIONS:

Provide staff direction.

### SUMMARY

The repurposing of the previous Walmart location at 355 Oro Dam Boulevard E (APN: 035-030-080) is underway. The commercial complex will be renamed to Feather River Crossing. The existing building will be separated into four different suites (A-D) and two additional detached buildings (Pads 1 & 2) will be constructed (**Attachment A**). The proposed retailers are as follows:

Space Identification	Square Feet	Potential Tenants
Retail A	29,580	Smart & Final
Retail B	18,012	Ross
Retail C	15,000	Harbor Freight
Suite D	27,960	Fit Republic
Pad 1	6,000	Mattress Firm
Pad 2	4,050	To be Determined

\* Total Square Feet = 100,602

The existing sign code applies maximum total sign area to a project site, and not by building. Currently, for sites between 80,000 to 140,000 square feet of gross floor area, the maximum total area for all signs is calculated at 1.5 square feet per linear foot of building frontage, or 450 square feet, whichever is less.

The maximum total sign area for the site is calculated as follows (including Pads 1 & 2):

Building Face	Street Fronted	Lineal Feet
East	Feather River Boulevard	342
North	Oro Dam Boulevard	378
West	State Route 70	362

\* Total Lineal Feet = 1,082

\*\* Maximum Total Sign Area: (1.5 x 1,082 = 1,623) or 450 square feet, whichever is less

The applicant is also proposing 20' and 10' tall monument signs, with 8' being the maximum height allowed, and an 80' tall freestanding sign with approximately 800 square feet per face. The maximum height of a freestanding freeway-oriented sign shall be 40 feet. Increased height, up to a maximum of 60 feet, may be permitted in order to provide motorists with direct vision of the sign from a distance of ¼ mile from a freeway exit ramp. The need for this increased height shall be demonstrated by means of a balloon test or other method approved by the zoning administrator. Maximum area of freestanding signs with a street frontage over 400' lineal feet is 100 square feet per face, with approximately 800 square feet per face proposed.

A complete sign package has not yet been submitted. However, based off the preliminary drawings that have been submitted thus far, it is apparent that if the strict and literal enforcement of the sign code is applied, a sign variance will be needed to exceed:

- the maximum total sign area permitted
- the maximum area of a freestanding sign
- the maximum height of a monument sign
- the maximum height of a freestanding sign

## FISCAL IMPACT

No fiscal impact at this time.

## **ATTACHMENTS**

- A – Site Plan
- B – Elevations
- C – Monument & Pylon Signs
- D – Ross Signage
- E – Smart & Final Typical Signage
- F – Sign Code Requirements





# FEATHER RIVER CROSSING, LLC

## Project Summary

Land:	10.05ac	437,798 SF
Building Area:	100,919 SF	
Land / Bldg.:	3.34 / 1 Ratio	
Building %:	23.1%	
Parking Prov'd:	508 Stalls	
Parking Ratio:	5.03/1,000 SF	

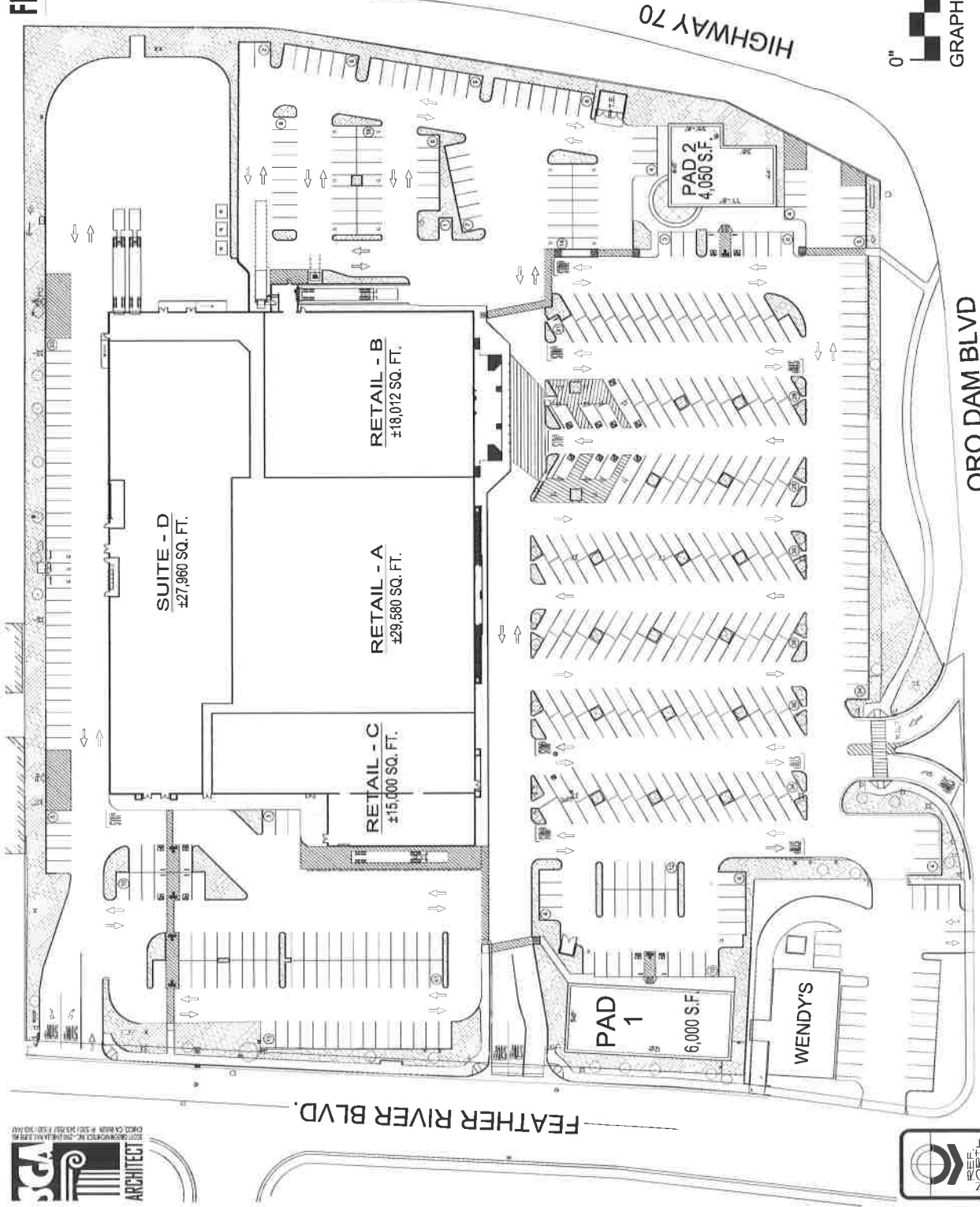
## Available

Retail A	- 29,580 SF
Retail B	- 18,012 SF
Retail C	- 15,000 SF
Suite D	- 27,960 SF
Pad 1	- 6,000 SF
Pad 2	- 4,050 SF

## Potential Tenants

- Ross
- Smart & Final
- Harbor Freight
- Fit Republic
- Chipotle
- Mattress Firm

## PROPOSED PARCEL MAP



GRAPHIC SCALE:

Date: 11/02/2017

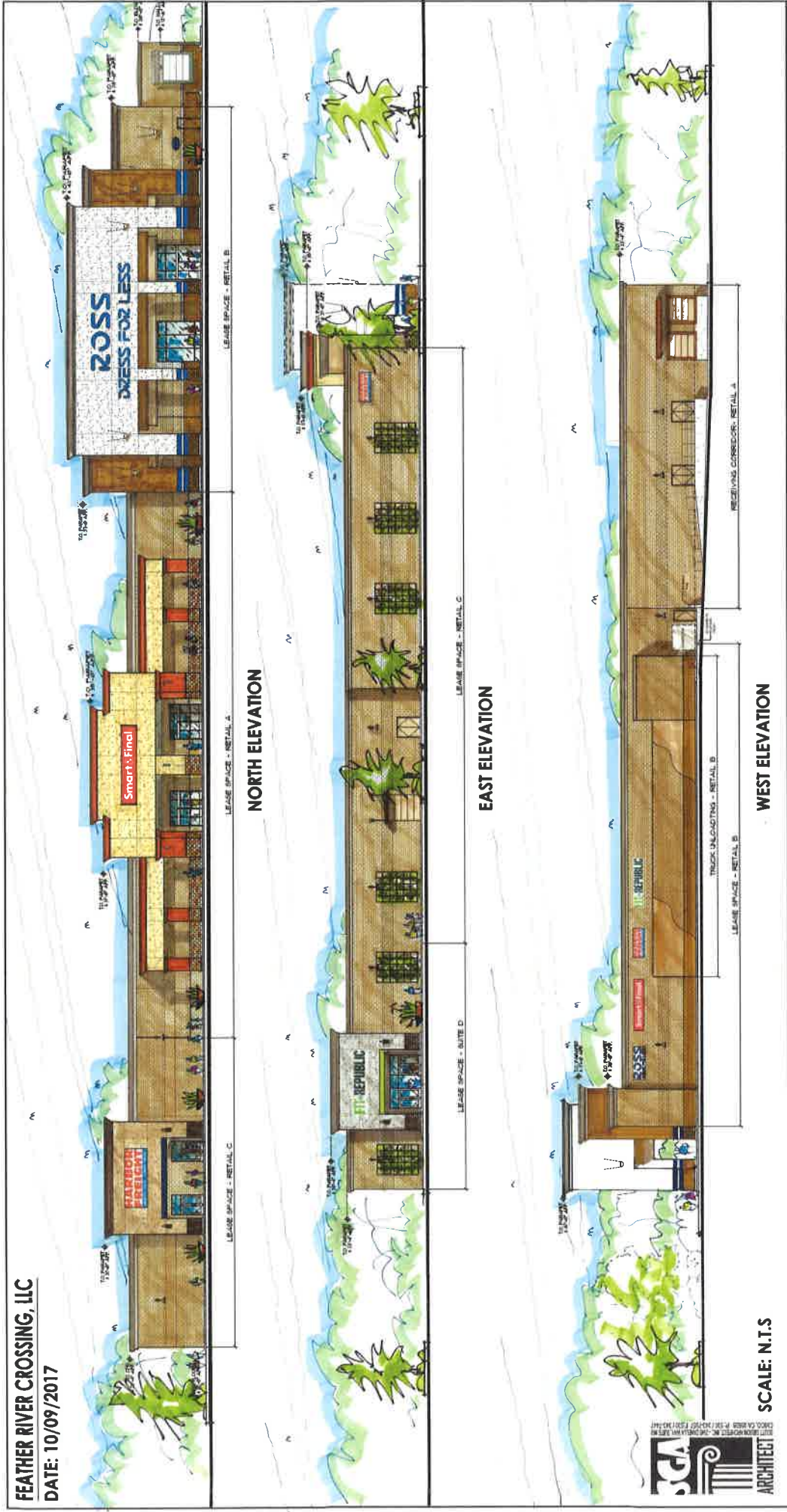


NOTE: THIS INFORMATION IS CONCEPTUAL IN NATURE, & IS SUBJECT TO ADJUSTMENTS PENDING FURTHER VERIFICATION & OWNER, TENANT & GOVERNMENTAL AGENCY CHANGES & APPROVALS. NO WARRANTIES OR GUARANTEES OF ANY KIND ARE GIVEN OR IMPLIED BY THE ARCHITECT. SITE PLAN DEVELOPED WITHOUT AN ACCURATE BOUNDARY SURVEY & SUBJECT TO CHANGE. OWNER TO PROVIDE ACCURATE SURVEY.



FEATHER RIVER CROSSING, LLC

DATE: 10/09/2017



SCALE: N.T.S



PRESENTED TO

# Feather River Grossing

355 Oro Dam Blvd. E, Oroville, CA 95965



**National Sign & Marketing Corporation**



ELECTRONIC SIGNS

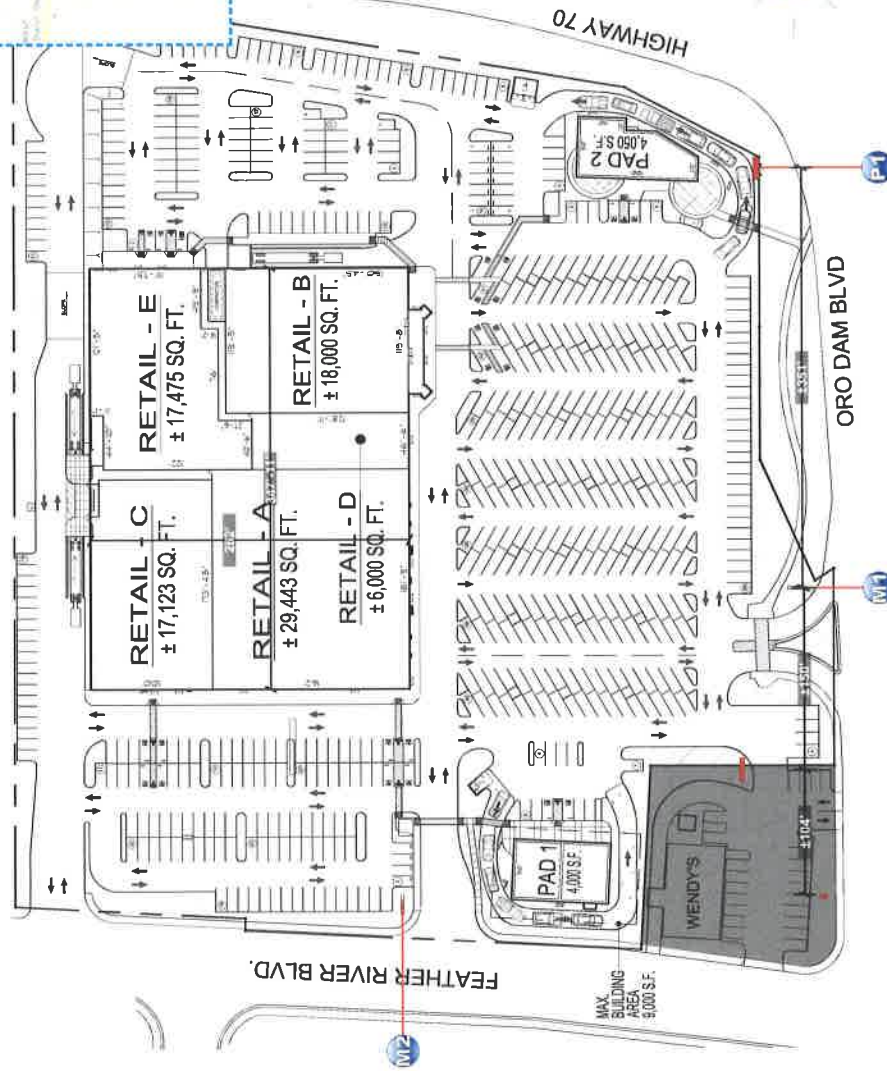
13580 5th Street • Chino, CA 91710 • Tel: 909.591.4742 • Fax: 909.591.9792 • Toll Free: 877.877.NSMC

# Scope of Work

- P1** NEW 80' D/F ILLUM. PYLON SIGN WITH MULTIPLE TENANT PANELS
- M1** NEW 20' D/F ILLUM. MONUMENT SIGN WITH MULTIPLE TENANT PANELS
- M2** NEW 10' D/F ILLUM. MONUMENT SIGN WITH MULTIPLE TENANT PANELS



## VICINITY MAP



**NOTE:**  
ALL NEW SIGNAGE TO CONNECT TO CLIENT PROVIDED ELECTRICAL CIRCUITS

## Feather River Crossing - Oroville, CA. - Site Plan

SCALE: 1" = 100'-0"



**National Sign & Marketing Corporation**  
13580 5th St., Chino, CA 91710  
Tel 909.591.4742 Fax 909.591.9792  
e-mail: sales@msmc.com  
Lic# 745030 - Exp. 01/31/18

**Project:** Feather River Crossing  
**Address:** 355 Oro Dam Blvd., Oroville, CA 95965  
**Phone:** \_\_\_\_\_ **Account Mgr.** P. Asakouhan  
**Designer:** Duffly, S. **Scale:** Noted **Date:** 09/06/2016

**Client Approval:** \_\_\_\_\_  
Date: \_\_\_\_\_

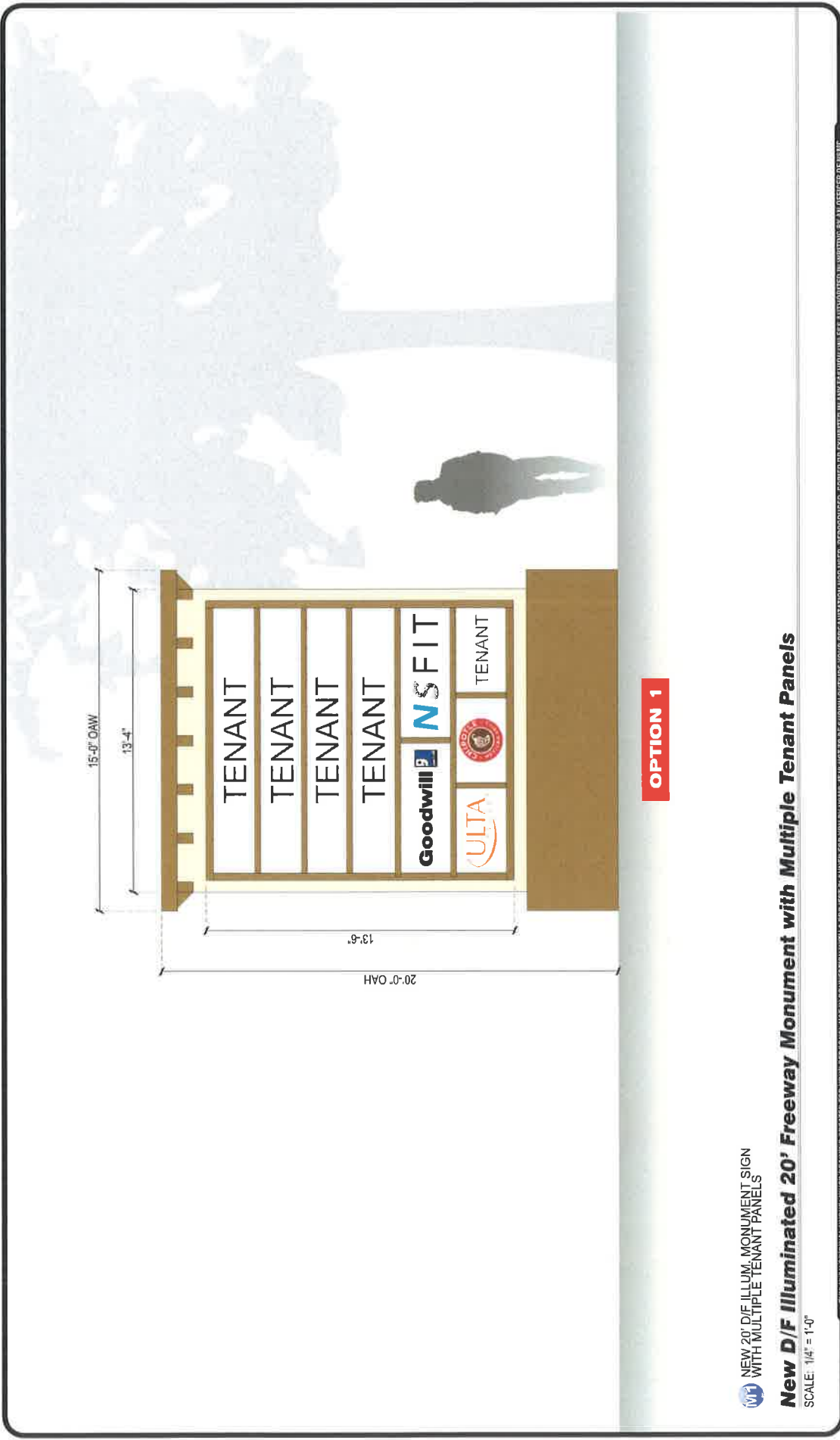
This sign is intended to be in accordance with the applicable codes and regulations of the local jurisdiction. The contractor is responsible for obtaining all necessary permits and approvals from the local jurisdiction.

**Revisions:**  
1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_  
4. \_\_\_\_\_  
5. \_\_\_\_\_

**Drawing Number**  
**27270**  
R6



THIS IS AN ORIGINAL UNPUBLISHED DRAWING CREATED FOR YOUR PERSONAL USE IN CONNECTION WITH A PROJECT PLANNED FOR YOU BY VISECO. IT IS NOT TO BE SHOWN OUTSIDE YOUR ORGANIZATION NOR USED, REPRODUCED, COPIED OR EXHIBITED IN ANY FASHION UNLESS AUTHORIZED BY AN OFFICER OF VISECO.



**OPTION 1**

**NEW 20' D/F ILLUM. MONUMENT SIGN WITH MULTIPLE TENANT PANELS**

**New D/F Illuminated 20' Freeway Monument with Multiple Tenant Panels**

SCALE: 1/4" = 1'-0"

THIS IS AN ORIGINAL UNPUBLISHED DRAWING. CREATED FOR YOUR PERSONAL USE OR CONNECTION WITH A PROJECT. PLAINED FOR YOU BY NSI. IT IS NOT TO BE SHOWN OUTSIDE YOUR ORGANIZATION NOR USED, REPRODUCED, COPIED OR EXHIBITED IN ANY MANNER UNLESS AUTHORIZED BY WRITING BY AN OFFICER OF NSI.



**National Sign & MARKETING CORPORATION**  
 13580 5th St., Chino, CA 91710  
 Tel 909.591.4742 Fax 909.591.3792  
 e-mail: sales@nsmc.com  
 Lic# 145030 - Exp. 01/31/18

**Project:** Feather River Crossing  
**Address:** 355 Ora Dam Blvd., Oroville, CA 95965  
**Phone:** \_\_\_\_\_ **Account Mgr.** P. Asatourian  
**Designer:** Duffy, S. **Scale:** Noted **Date:** 08/06/2016

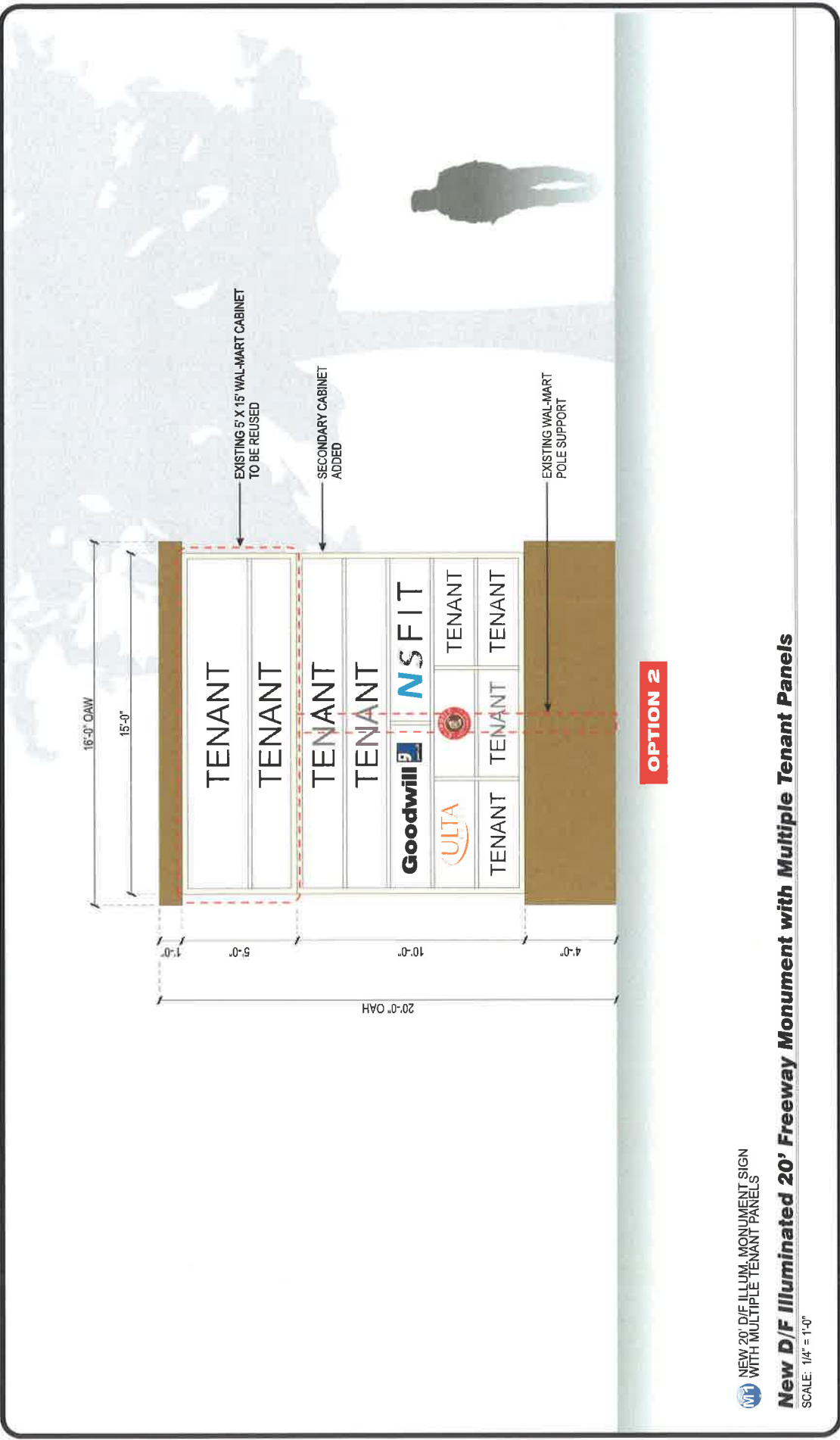
**Client Approval:** \_\_\_\_\_  
 Date: \_\_\_\_\_

This sign must be in accordance with the applicable local, state and federal regulations. The contractor is responsible for obtaining all necessary permits.

**Revisions:**  
 1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_  
 5. \_\_\_\_\_

**Drawing Number**  
**27270**  
**R6**





NEW 20' D/F ILLUM. MONUMENT SIGN WITH MULTIPLE TENANT PANELS

**New D/F Illuminated 20' Freeway Monument with Multiple Tenant Panels**

SCALE: 1/4" = 1'-0"



**National Sign & Marketing Corporation**  
 13580 5th St., Chino, CA 91710  
 Tel: 919-336-3665 @ 919-336-3665  
 Lic# 745030 - Exp. 01/31/18

**Project:** Feather River Crossing  
**Address:** 355 On Dam Blvd., Oroville, CA 95965  
**Phone:** \_\_\_\_\_ **Account Mgr.** \_\_\_\_\_ P. Assaloun  
**Designer:** Duffy, S. **Scale:** Noted **Date:** 09/06/2016

**Client Approval:** \_\_\_\_\_  
 Date: \_\_\_\_\_

As approved by the architect with the above noted conditions, the sign shall be installed in accordance with the approved plans and specifications. The sign shall be installed in accordance with the approved plans and specifications. The sign shall be installed in accordance with the approved plans and specifications.

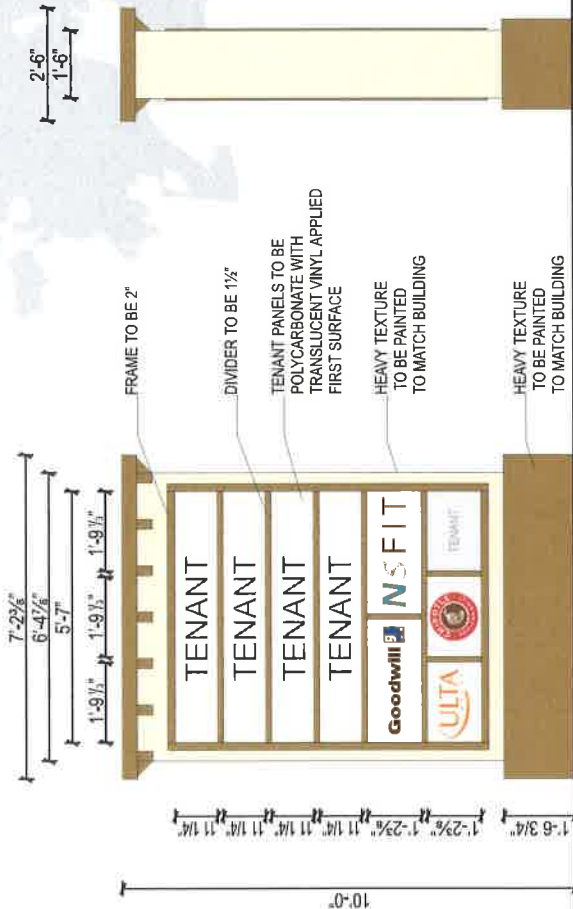
UL

**Revisions:**  
 1. Add 5' x 15' cabinet to be reused.  
 2. Add secondary cabinet.  
 3. Add existing Wal-Mart pole support.  
 4. Add existing Wal-Mart cabinet to be reused.  
 5. Add existing Wal-Mart pole support.

**Drawing Number**  
**27270**  
 R6







NEW 10' D/F ILLUM. MONUMENT SIGN WITH MULTIPLE TENANT PANELS

### New D/F Illuminated 10' Freeway Monument with Multiple Tenant Panels

SCALE: 3/8" = 1'-0"

THIS IS AN ORIGINAL UNPUBLISHED DRAWING CREATED FOR YOUR PERSONAL USE IN CONNECTION WITH A PROJECT PLANNED FOR YOU BY NCS. IT IS NOT TO BE SHOWN OUTSIDE YOUR ORGANIZATION NOR USED, REPRODUCED, COPIED OR EXHIBITED IN ANY FASHION UNLESS AUTHORIZED BY WRITING BY AN OFFICER OF NCS.



**National Sign & Marketing Corporation**  
 13580 5th St., Chino, CA 91710  
 Tel 909.591.4742 Fax 909.591.3792  
 e-mail: sales@nsmc.com  
 Lic# 749030 - Exp. 01/31/18

**Project:** Feather River Crossing  
**Address:** 355 Oro Dam Blvd., Oroville, CA 95965  
**Phone:** \_\_\_\_\_ **Account Mgr.** P. Assalourian  
**Designer:** Duffy, S. **Scale:** Noted **Date:** 05/02/2016

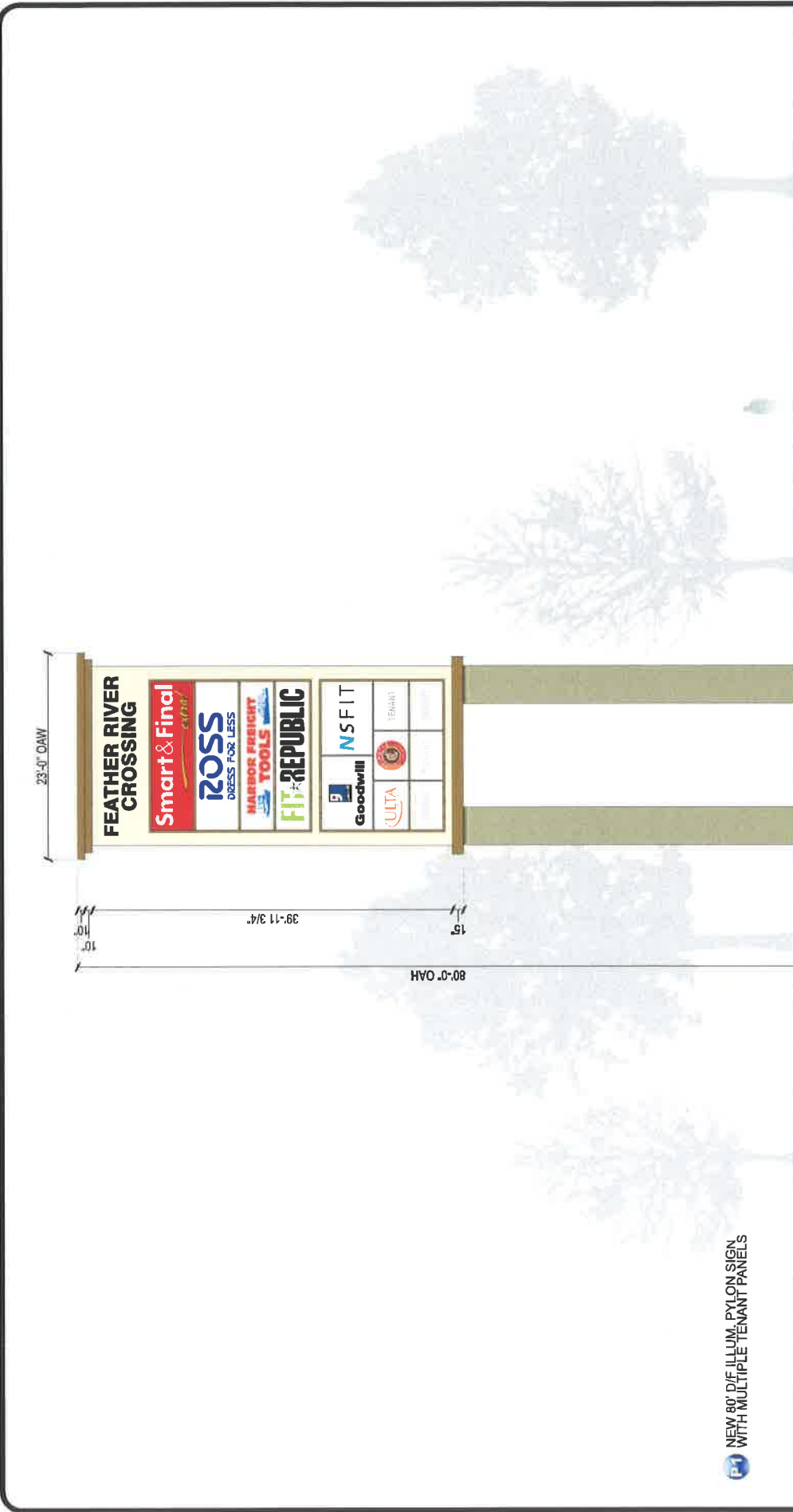
**Client Approval:** \_\_\_\_\_  
 Date: \_\_\_\_\_

This sign must be in accordance with the applicable code and any other applicable local codes. The exhibitor proper printing and lighting is to be used.

**Revisions:**  
 1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_  
 5. \_\_\_\_\_  
 6. \_\_\_\_\_  
 7. \_\_\_\_\_  
 8. \_\_\_\_\_  
 9. \_\_\_\_\_  
 10. \_\_\_\_\_

**Drawing Number**  
**27270**  
**R6**





NEW 80' D/F ILLUM. PYLON SIGN WITH MULTIPLE TENANT PANELS

**New D/F Illuminated 80' Freeway Pylon with Multiple Tenant Panels**

SCALE: 3/32" = 1'-0"

THIS IS AN ORIGINAL UNPUBLISHED DRAWING CREATED FOR YOUR PROJECT. IT IS NOT TO BE SHOWN OUTSIDE YOUR ORGANIZATION NOR USED, REPRODUCED, COPIED OR EXHIBITED IN ANY MANNER UNLESS AUTHORIZED IN WRITING BY AN OFFICER OF VMSCO.



**National Sign & Marketing Corporation**  
 13560 5th St., Suite 200, San Diego, CA 92128  
 Phone: 619-441-9792  
 e-mail: sales@nsmc.com  
 Lic# 745030 - Exp. 01/31/18

**Project:** Feather River Crossing  
**Address:** 355 Oro Dam Blvd., Oroville, CA 95965  
**Phone:** \_\_\_\_\_ **Account Mgr.:** \_\_\_\_\_ P. Assaloun  
**Designer:** Duffy, S. **Scale:** Noted **Date:** 09/06/2016

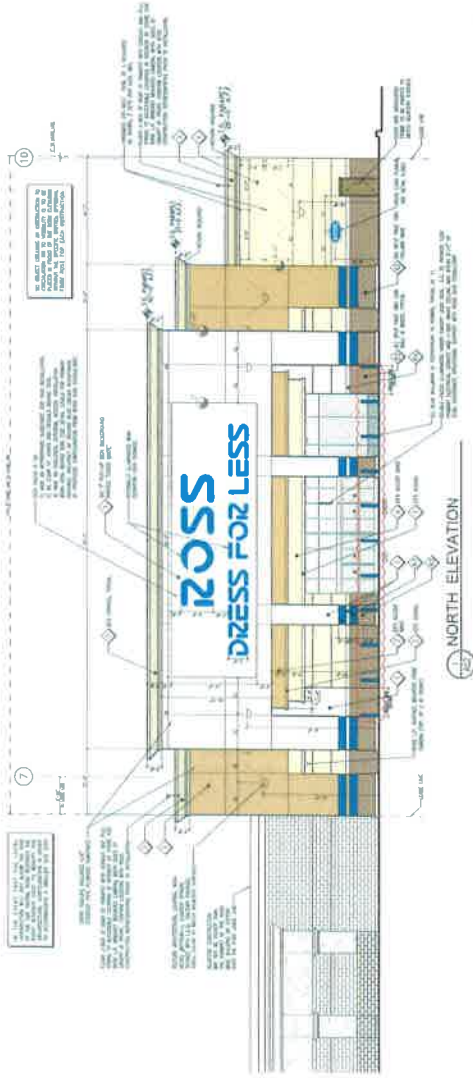
**Client Approval:** \_\_\_\_\_  
 Date: \_\_\_\_\_

This sign shall be installed in accordance with the National Electrical Code (NEC) and all applicable local, state and federal codes. The sign shall be designed and installed in accordance with the National Electrical Code (NEC) and all applicable local, state and federal codes. The sign shall be designed and installed in accordance with the National Electrical Code (NEC) and all applicable local, state and federal codes.

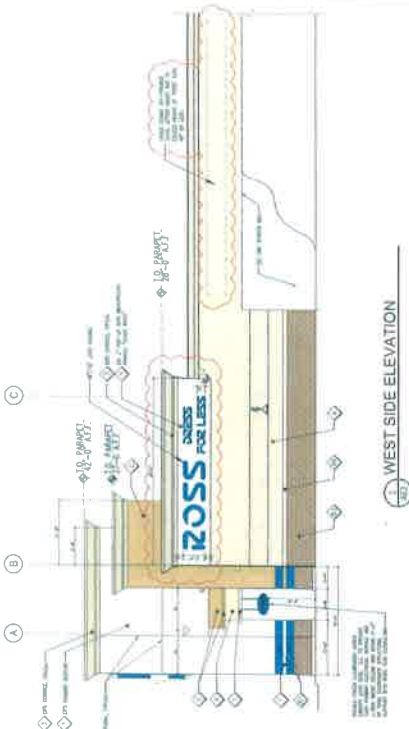
**Revisions:**  
 1. \_\_\_\_\_  
 2. \_\_\_\_\_  
 3. \_\_\_\_\_  
 4. \_\_\_\_\_  
 5. \_\_\_\_\_

**Drawing Number**  
**27270**  
**R6**

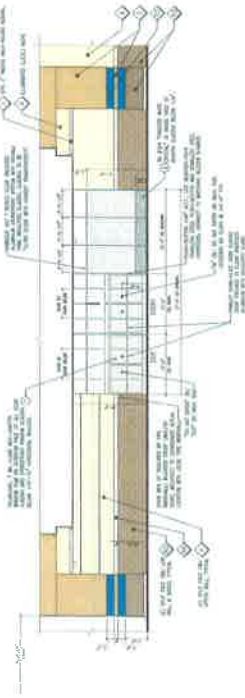




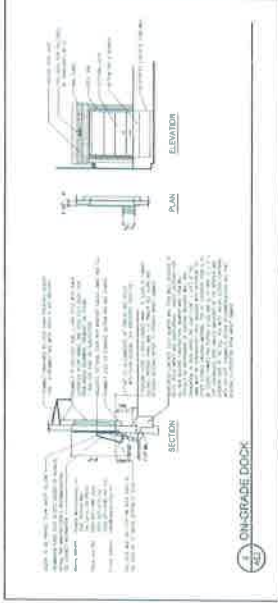
10 NORTH ELEVATION



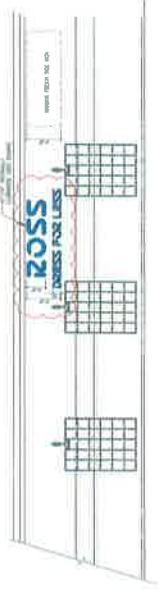
11 WEST SIDE ELEVATION



12 NORTH STOREFRONT ELEVATION



13 ON-SHOPPE DOOR



14 EAST SIDE ELEVATION



15 LOGO PLAQUE DETAIL

**GENERAL ELEVATION NOTES**

1. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
2. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
3. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
4. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
5. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
6. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
7. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
8. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
9. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.
10. ALL MATERIALS TO BE USED IN THIS PROJECT SHALL BE APPROVED BY THE ARCHITECT PRIOR TO INSTALLATION.

**ROSS DRESS FOR LESS**  
 STORE DESIGN  
 5100 Riverside Drive  
 (925) 995-4400

REVISION: \_\_\_\_\_ DATE: \_\_\_\_\_

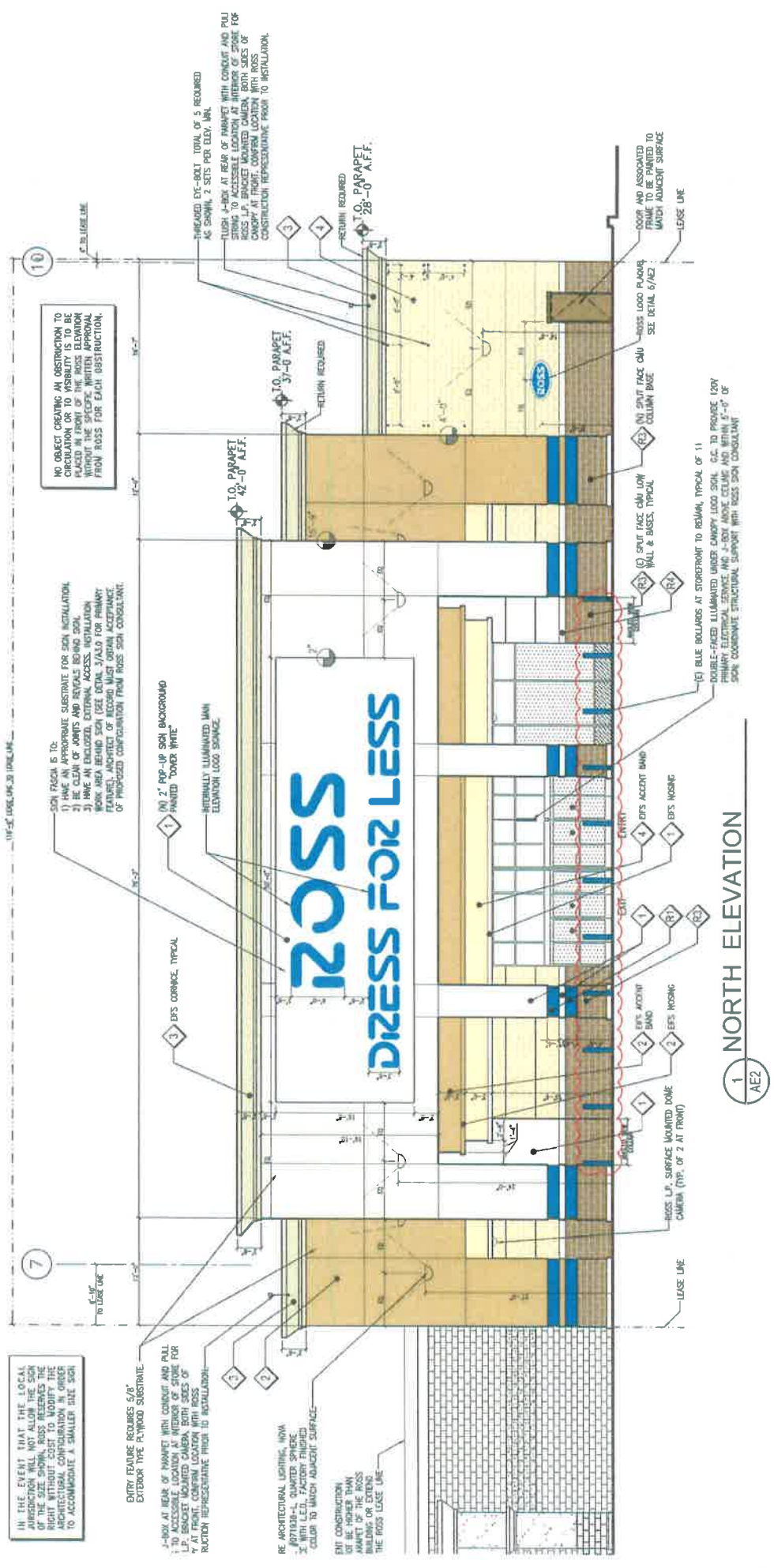
STORE # 2096  
 LOCATION: \_\_\_\_\_  
 PROJECT: \_\_\_\_\_  
 CONSULTANT: \_\_\_\_\_

TITLE: \_\_\_\_\_  
 DATE: \_\_\_\_\_

DATE: NOVEMBER 18, 2017  
 SCALE: 1/8" = 1'-0"  
 SHEET: \_\_\_\_\_

SHEET # \_\_\_\_\_ OF \_\_\_\_\_  
 AE2-0  
 FILE: 2096-01-1

**RB-E/HYBRID**  
 2096, OROVILLE, CA



NO OBJECT CREATING AN OBSTRUCTION TO CIRCULATION OR TO VISIBILITY IS TO BE PERMITTED... WITHOUT THE SPECIFIC WRITTEN APPROVAL FROM ROSS FOR EACH OBSTRUCTION.

SOB FROM E TO:  
 1) FINISH APPROPRIATE SUBSTRATE FOR SOB INSTALLATION  
 2) BE CLEAN OF JOINTS AND REVEALS BEHIND SOB  
 3) HAVE AN ENCLOSED EXTERNAL ACCESS INSTALLATION WORK AREA BEHIND SOB (SEE DETAIL 3/ALSO FOR PRIMARY FEATURES), ARCHITECT OF RECORD MUST OBTAIN ACCEPTANCE OF PROPOSED CONFIGURATION FROM ROSS SIGN CONSULTANT.

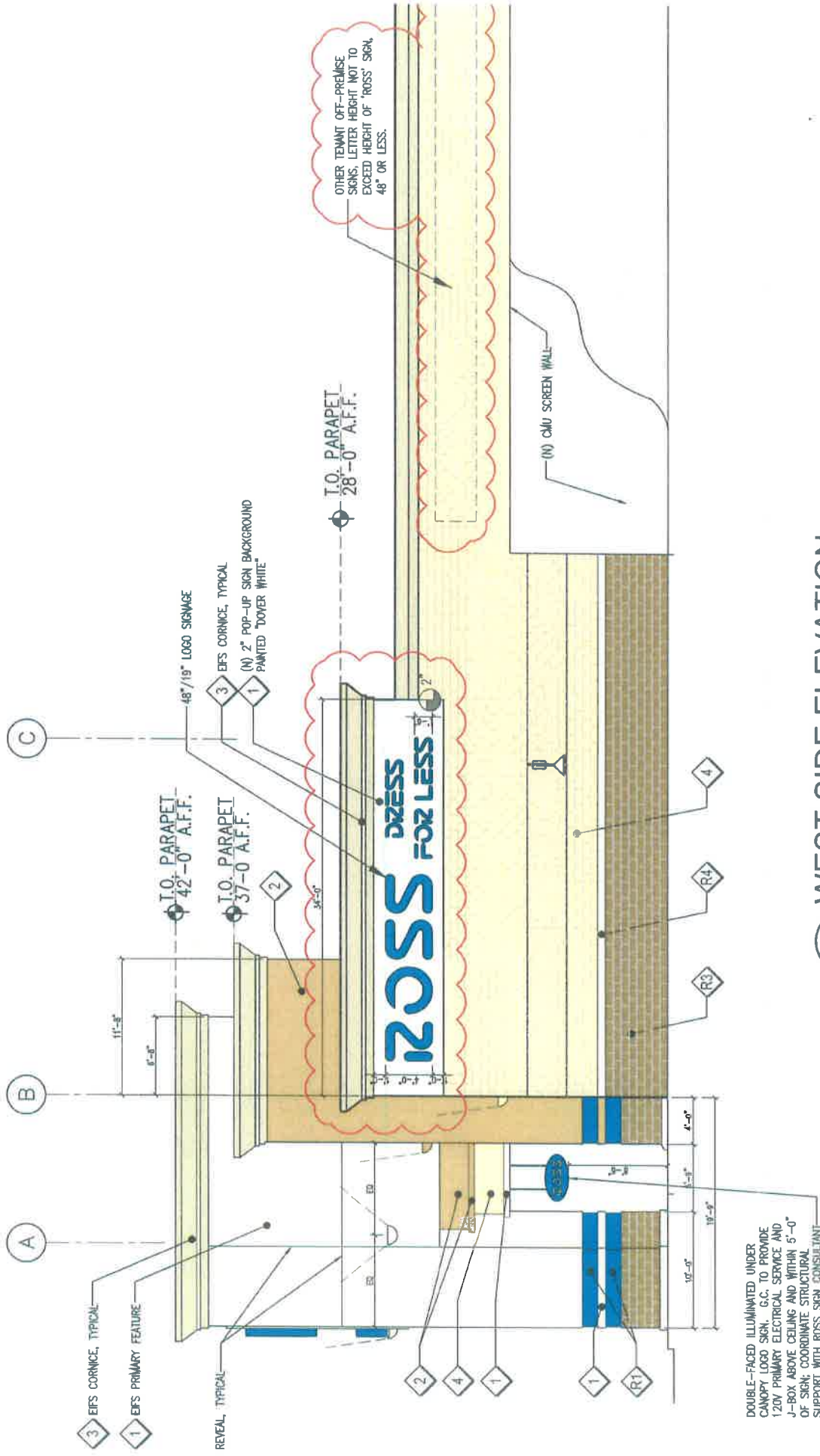
ENTRY FEATURE REQUIRES 5/8" EXTERIOR TYPE FIBROID SUBSTRATE

J-BOX AT REAR OF PARAPET WITH CONDUIT AND PULL STRING TO ACCESSIBLE LOCATION AT REAR OF STORE FOR L.P. BRACKET MOUNTED CAMERA. BOTH SIDES OF PARAPET AT FRONT. CONDUIT LOCATION WITH ROSS RUNCTION REPRESENTATIVE PRIOR TO INSTALLATION.

RE ARCHITECTURAL LIGHTING, NOVIA WITH LED, FACTORY FINISHED COLOR TO MATCH ADJACENT SURFACE

ENT CONSTRUCTION TO BE HIGHER THAN PARAPET OF THE ROSS SIGN OR GREATER THAN THE ROSS LEASE LINE

1 NORTH ELEVATION  
 AE2



2 WEST SIDE ELEVATION

2  
AE2

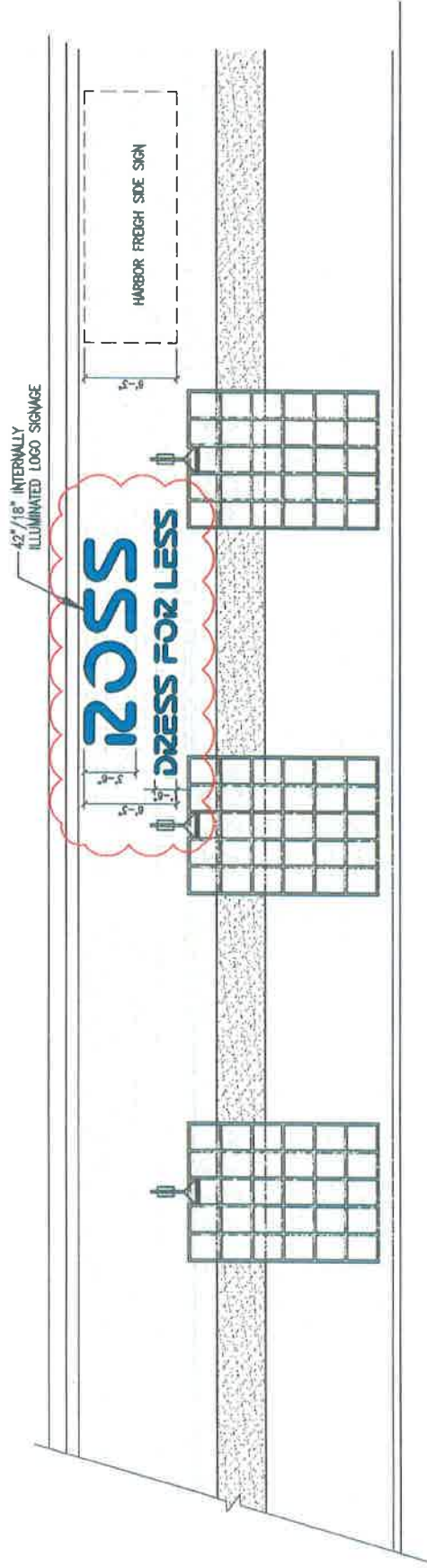


DRESS SURFACE 2" BEYOND AND BEHIND ROSS  
 OVAL WALL PLAQUE SO THAT WALL PLAQUE SITS  
 FLUSH AGAINST WALL. CONTRACTOR TO OBTAIN  
 FULL SIZE OVAL TEMPLATE FROM ROSS  
 CONSTRUCTION REPRESENTATIVE OR AS INSTRUCTED

# 5 LOGO PLAQUE DETAIL

5	AE2
---	-----

AE2



4 EAST SIDE ELEVATION

AE2





**S/F INTERNALLY LED ILLUMINATED CHANNEL LETTERS WALL SIGN**

**LETTERS:**

TO BE FABRICATED FROM SHEET ALUMINUM, PAINTED W/ SPRAYLAT POLYURETHANE FINISH OVER PROTECTIVE PRIMER UNDERCOAT.

**"SMART&FINAL":**

TO BE FABRICATED FROM 3/16" THICK WHITE ACRYLIC PLASTIC LETTERS W/ 3M TRANS. CARDINAL RED #3630-53 VINYL OVERLAY.

TRIMCAPS - TO BE 3/4" THICK RED.

RETURNS - TO BE 5" DEEP ALUMINUM STD. RED COIL

**"extra!":**

TO BE #7328 WHITE ACRYLIC PLASTIC W/ 3M TRANS. GOLD YELLOW #3630-125 & BLACK #3630-22 VINYL OVERLAY.

TRIMCAPS - TO BE 3/4" THICK BLACK.

RETURNS - TO BE 5" DEEP ALUMINUM STD. BLACK COIL.

**ALL CONSTRUCTIONS & WIRING TO BE UL LISTED APPROVED WHITE LED SYSTEM. ALL COMPONENTS TO BE UL LISTED.**

This sign is intended to be installed in accordance with the requirements of the International Building Code (IBC) and other applicable local codes. This includes proper grounding and bonding of the sign. CBC Appendix 106.1.1 construction shall comply with the 2013 CBC, CEC Editions (CBC 3107.1)

**SIGN LIGHTING CONTROLS**

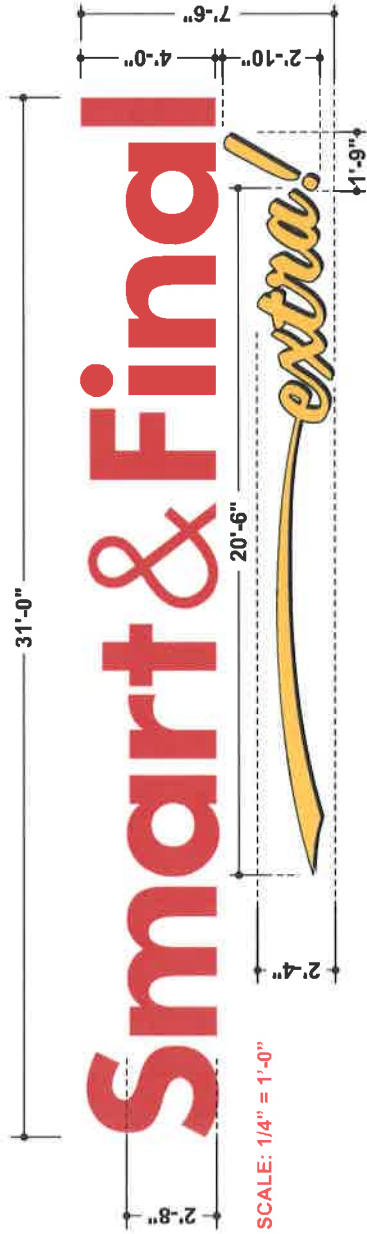
Control for All Signs. All signs with permanently connected lighting shall meet the requirements of Section 152.

Automatic Time Switch Control. All signs with permanently connected lighting shall be controlled with an automatic time switch that complies with the applicable requirements of Section 119.

Photocontrol or outdoor astronomical time switch control. All outdoor signs shall be controlled with a photocontrol device that complies with the applicable requirements of the exceptions. See Section 133(a)2.

Dimming. All outdoor signs shall be controlled with a dimmer that provides the ability to automatically reduce the lighting power by a minimum of 30% when the sign is exempted from the 5 possible exceptions. See Section 133(a)3.

Demand Responsive Electronic Message Center Control (EMCC). Newly connected lighting power load greater than 15kw shall have a control installed that is capable of reducing the lighting power by a minimum of 30% when receiving a demand response signal that is sent out by the local utility.



SCALE: 1/4" = 1'-0"

**■ Sign Area:**

• Smart&Final	4'0" x 31'0"	124.00 sq. ft.
• extra	2'4" x 20'6"	47.83 sq. ft.
• !	1'9" x 2'10"	4.95 sq. ft.

**TOTAL SIGN AREA:**

**176.78 sq. ft.**



**SOUTH - FRONT ELEVATION**

STORE FRONTAGE: 183'-0"

**SIGN AREA: 228.77 SQ. FT.**

SCALE: 1/16" = 1'-0"



**■ Sign Area:**

- Fresh Meat 1'6" x 12'5" 18.62 sq. ft.
- Farm Fresh 1'6" x 12'5" 18.62 sq. ft.
- Produce 1'6" x 9'10" 14.75 sq. ft.

**B**

**S/F INTERNALLY LED ILLUMINATED CHANNEL LETTERS WALL SIGN**

**SIGN AREA: 51.99 SQ. FT.**

**SCALE: 1/2" = 1'-0"**

**LETTERS:**

TO BE FABRICATED FROM SHEET ALUMINUM, PAINTED W/ SPRAYLAC POLYURETHANE FINISH OVER PROTECTIVE PRIMER UNDERCOAT.

**COPY:**

TO BE 3/16" THICK WHITE ACRYLIC PLASTIC W/ 3M TRANS. CARDINAL RED #3630-53 VINYL OVERLAY. TRIMCAPS TO BE 3/4" THICK RED. RETURNS TO BE 5" DEEP ALUMINUM STD. RED COIL.

**TRIMCAPS:**

ALL LETTERS TO BE 3/4" THICK RED.

**RETURNS:**

ALL LETTERS TO BE 5" DEEP ALUMINUM STD. RED COIL.

**ALL CONSTRUCTIONS & WIRING TO BE UL LISTED APPROVED WHITE LED SYSTEM. ALL COMPONENTS TO BE UL LISTED.**

**D/F INTERNALLY ILLUMINATED MONUMENT SIGN**

**CABINET:**

TO BE FABRICATED FROM .063 ALUMINUM, PAINTED W/ SPRAY LAC POLYURETHANE FINISH OVER PROTECTIVE PRIMER UNDERCOAT.

**FACES:**

TO BE 3/16" THICK WHITE LEXAN W/ VINYL OVERLAY.

**VINYL(S):**

- "SMART&FINAL" - TO BE 3M CARDINAL RED #3630-53 BACKGROUND W/ COPY TO BE REVERSED CUT TO SHOW WHITE.

- "EXTRA!" - TO BE 3M GOLDEN YELLOW #3630-125 W/ BLACK #3630-22 DROP SHADOW VINYL OVERLAY.

**CORNICES:**

TO BE FABRICATED FROM ALUMINUM, TEX-COATED & PAINTED TO MATCH BUILDING.

**RETAINERS:**

TO BE PAINTED DUNN EDWARDS #D66178 BOUTIQUE BEIGE.

**RETURNS:**

TO BE PAINTED CARDINAL RED.

**BASE:**

TO BE FABRICATED FROM ALUMINUM, W/ LEDGESTONE VENEER.

**NOTE:**

SIGN TO SIT ON 4" HIGH CONCRETE PADS.

This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code (NEC), specifically 600.21(A) through 600.21(D) for grounding and bonding of the sign. CBC Appendix 16E.1.1; construction shall comply with the 2013 CBC, CEC Editions (CBC 3107.1)

**SIGN LIGHTING CONTROLS**

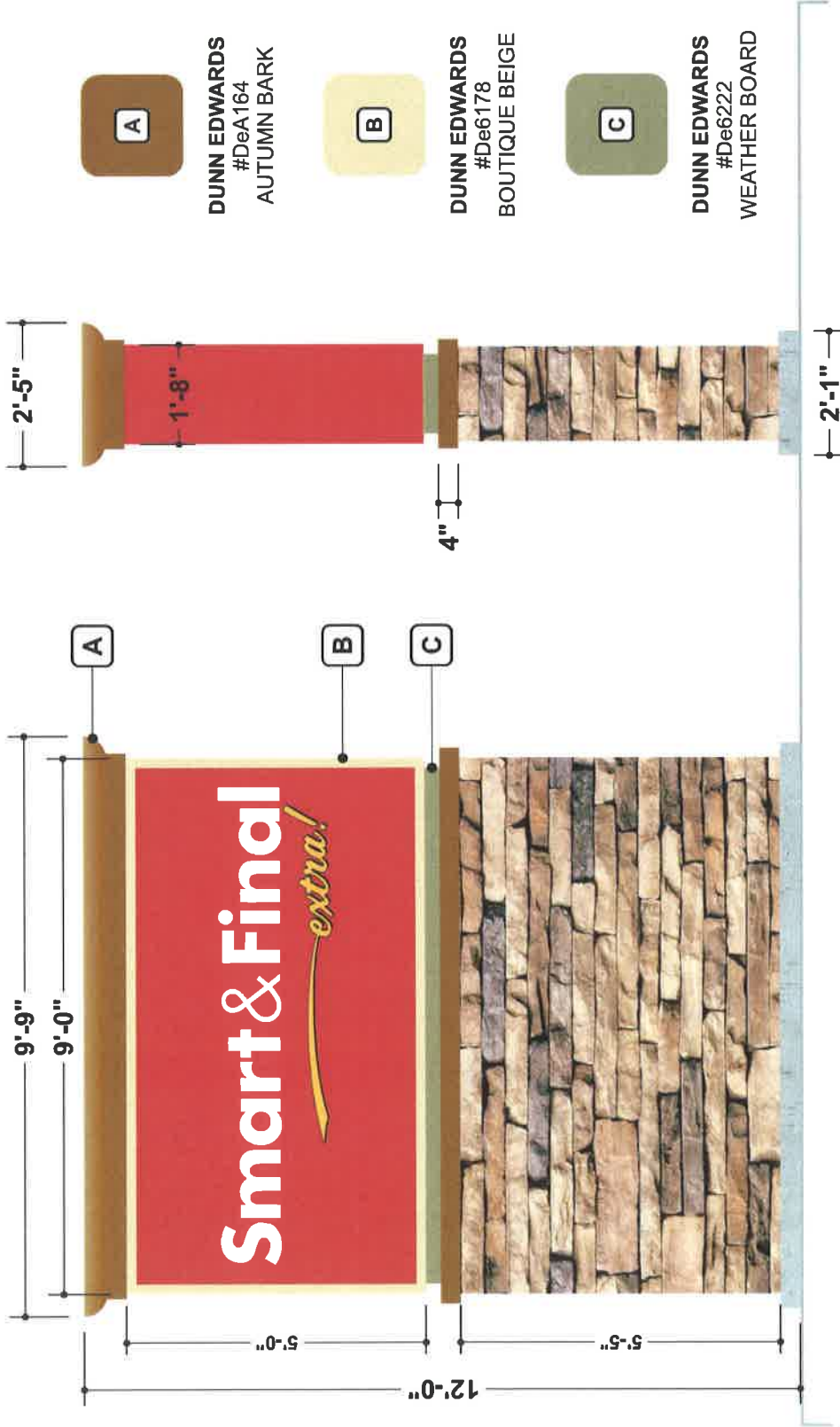
Control for ALL signs. All signs with permanently connected lighting shall meet the requirements of Section 132.

Automatic Time Switch Control. All signs with permanently connected lighting shall be controlled with an automatic time switch that complies with the applicable requirements of Section 138.

Photocontrol or outdoor astronomical time switch control. All outdoor signs shall be controlled with a photocontrol or outdoor astronomical time switch unless exempted from the exceptions. See Section 134(e).

Dimming. All outdoor signs shall be controlled with a dimmer that provides the ability to automatically reduce sign power by a minimum of 65 percent during nighttime hours from the 5 possible exceptions. See Section 133(f)(3).

Demand Responsive Electronic Message Center Control (DRE-MCC) shall have a control installed that is capable of reducing the lighting power by a minimum of 30% when receiving a demand response signal that is sent out by the local utility.



**DUNN EDWARDS #DeA164 AUTUMN BARK**

**DUNN EDWARDS #De6178 BOUTIQUE BEIGE**

**DUNN EDWARDS #De6222 WEATHER BOARD**

**SIGN AREA: 45 SQ. FT.**

SCALE: 1/2" = 1'-0"





Window signs	No maximum	25% of window area	140,000 to 200,000 sq. ft. of gross floor area: 1.5 sq. ft. for each linear foot of building frontage, or 500 sq. ft., whichever is less	No maximum	Yes	Section 17.20.070
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**Notes:**

- <sup>1</sup> The maximum total area for all signs applies to all signs on a site, including signs for all tenants of a multi-tenant building.
- <sup>2</sup> For a gross floor area less than 20,000 square feet, the maximum total area shall not be lower than 50 square feet.
- <sup>3</sup> For a gross floor area of at least 20,000 square feet, the maximum total area shall not be lower than 75 square feet.
- <sup>4</sup> Freeway-oriented businesses, as well as sites contiguous to Oroville Dam Boulevard, as well as other C-1 and MXD properties may have one freestanding sign with additional height as specified in Section 17.20.070.
- <sup>5</sup> Maximum sign height of 20 feet may be exceeded, subject to the approval of the planning commission.

**Table 17.20.120-3  
Allowed Signs in C-2, CH, CLM and MXC Districts**

Permitted Sign Types	Max. Number of Signs	Max. Area	Max. Total Area for All Signs <sup>1</sup>	Max. Height	Lighting Allowed	Additional Requirements
Awning signs	No maximum	50% of awning area, or 40 sq. ft., whichever is less	Less than 20,000 sq. ft. of gross floor area: 1.5 sq. ft. per linear foot of building frontage, or 300 sq. ft., whichever is less <sup>2</sup>	No maximum	Yes; internal illumination prohibited	Section 17.20.070
Banner signs	1 per frontage	40 sq. ft.		20 feet <sup>6</sup>	No	—
Canopy signs	No maximum	5 sq. ft. per face		20 feet <sup>6</sup>	Yes; internal illumination prohibited	—
Freestanding signs	1 per frontage	Determined by total area	20,000 to 40,000 sq. ft. of gross floor area: 1.5 sq. ft. per linear foot of building frontage, or 350 sq. ft., whichever is less <sup>3</sup>	8 feet <sup>5</sup>	Yes	Section 17.20.070
Marquee signs	1 per frontage	Determined by total area		10 feet	Yes	—
Monument signs	1 per frontage	Determined by total area	40,000 to 80,000 sq. ft. of gross floor area: 1.5 sq. ft. per linear foot	8 feet	Yes	Section 17.20.070
Projecting signs	1 per tenant on each frontage	50 sq. ft.		20 feet <sup>6</sup>	Yes	Section 17.20.070

Window signs	No maximum	25% of window area	80,000 to 140,000 square feet of gross floor area: 1.5 square feet per linear foot of building frontage, or 450 square feet, whichever is less  140,000 to 200,000 square feet of gross floor area: 1.5 square feet per linear foot of building frontage, or 500 square feet, whichever is less	No maximum	Yes	Section 17.20.070
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**Notes:**

- 1 The maximum total area applies to all signs on a site, including signs for all tenants of a multi-tenant building.
- 2 For a gross floor area less than 20,000 square feet, the maximum total area shall not be lower than 50 square feet.
- 3 For a gross floor area between 20,000 and 40,000 square feet, the maximum total area shall not be lower than 75 square feet.
- 4 For a gross floor area more than 40,000 square feet, the maximum total area shall not be lower than 100 square feet.
- 5 Freeway-oriented businesses, sites contiguous to Oroville Dam Boulevard, as well as other C-I and MXD properties may have one freestanding sign with additional height as specified in Section 17.20.070.
- 6 Maximum sign height of 20 feet may be exceeded, subject to the approval of the planning commission.

(Ord. 1749 § 4; Ord. 1763 §§ 11, 14—17; Ord. 1796 §§ 1—3)

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View the [mobile version](#).

**17.20.070 Requirements for specific types of signs.**

The following requirements shall apply in any case where the specified type of sign is used, unless provided otherwise by this section:

**A. Wall Signs.**

1. No part of a wall sign shall extend more than 1/3 of the sign height or 8 feet, whichever is less, above the top of the portion of the building façade that is adjacent to the sign.
2. The thickness of any wall sign shall not exceed one foot.
3. The maximum area for the total of all permitted wall signs for any single wall plane shall not exceed 10%. The wall plane area shall include all window and door areas and shall be measured from the sidewalk or ground line to the building eave line or parapet.

**B. Window Signs.** For windows that have multiple panes, in order to determine the maximum window area that may be covered, the window area shall be measured as the framed area of all of the window's panes.

**C. Monument Signs.**

1. Monument signs shall not be placed on any frontage with a building setback of less than 15 feet.
2. A minimum distance of 50 feet shall separate any 2 monument signs.
3. Where practical, monument signs shall be placed so that the sign face is perpendicular to the adjacent right-of-way.

**D. Freestanding Signs.**

1. Freestanding signs shall not be placed on any frontage with a width of less than 75 feet, or with a building setback of less than 25 feet.
2. A minimum distance of 75 feet shall separate any 2 freestanding signs.
3. Where practical, freestanding signs shall be placed so that the sign face is perpendicular to the adjacent right-of-way.
4. The maximum height of a freestanding freeway-oriented sign shall be 40 feet. Increased height, up to a maximum of 60 feet, may be permitted in order to provide motorists with direct vision of the sign from a distance of 1/4 mile from a freeway exit ramp. The need for this increased height shall be demonstrated by means of a balloon test or other method approved by the zoning administrator. The maximum permitted height shall be specified in the sign permit.
5. To exceed the allowable height of a freestanding sign as specified in Tables 17.20.120-2, 17.20.120-3, and 17.20.130-1, approval of the planning commission shall be required.
6. The maximum freestanding sign area is based on the total linear street frontage of the front side of the site as follows:

**Street Frontage Sign Area**

Up to 200 ft.	50 sq. ft. per side
---------------	---------------------

200 to 400 ft.	75 sq. ft. per side
Over 400 ft.	100 sq. ft. per side

7. No portion of a freestanding sign shall project above a public right-of-way.

**E. Projecting Signs.**

1. Projecting signs may be provided only for uses located on the ground floor of a building.
2. A projecting sign may include a projection above a maximum of 5 feet of the width of a public right-of-way, provided that the sign includes the minimum vertical clearance specified by Section 17.20.060 and provides a 2-foot horizontal clearance from the curb face.
3. In a multi-story building, projecting signs shall be placed at or below the sill of the second-floor windows in a multi-story building.
4. No part of a projecting sign shall extend more than 1/3 of the sign height or 8 feet, whichever is less, above the top of the portion of the building façade that is adjacent to the sign.
5. Where practical, projecting signs shall be placed so that the sign face is perpendicular to the adjacent right-of-way.
6. The total area of a projecting sign shall not exceed 50 square feet.
7. The thickness of any projecting sign shall not exceed one foot.

**F. Awning Signs.** Awning signs may be placed at the sides or ends of the awning and shall not project from the surface of the awning.

**G. Reader Boards.**

1. Reader boards may be provided as part of any allowed sign.
2. The area of a reader board shall not exceed 40 square feet on any one face, and in no case shall a reader board be provided on more than 2 faces of a sign. (Ord. 1749 § 4; Ord. 1763 §§ 12, 13; Ord. 1796 § 6)





# City of Oroville



Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### PLANNING COMMISSION STAFF REPORT

December 14, 2017

<b>Prioritization of the Transportation Capital Improvement Program (TCIP) Projects List - The Oroville Planning Commission will review and prioritize the City's TCIP projects list to forward its recommendations to the City Council.</b>	
<b>APPLICANT:</b> Oroville Planning Commission 1735 Montgomery Street Oroville, CA 95965	
<b>LOCATION:</b> Citywide	<b>GENERAL PLAN:</b> N/A <b>ZONING:</b> N/A <b>FLOOD ZONE:</b> N/A
<b>REPORT PREPARED BY:</b>   Luis A. Topete, Associate Planner Community Development Department	<b>REVIEWED BY:</b>   Donald Rust, Director Community Development Department

### RECOMMENDED ACTIONS:

Staff recommends the Planning Commission forward a prioritized list of TCIP projects to the City Council for their review and consideration.

### BACKGROUND

At the May 18, 2017 Planning Commission meeting, the Commission directed staff to draft a letter to the Council recommending that the Planning Commission be granted the authority to provide review and prioritization recommendations to the City Council regarding certain "roadway" improvement projects (e.g. intersection improvements, curb, gutter and sidewalk installations, etc.). The review would take the form of the Planning Commission's analysis of the "roadway" specific projects in the City's Capital Improvement projects list

and forwarding a prioritization of the projects list to the City Council for recommendations of where monies should be first allocated when available. Review and comments would not occur for storm drains, sewer, and other utilities. The City Council approved this request at their July 18, 2017 regular Council meeting.

## **DISCUSSION**

The TCIP has identified 28 intersection improvements, 22 roadway improvements, and 8 bicycle facility improvements as part of the 2012 TCIP and Impact Fee Update Report. This report was prepared prior to the South Oroville Annexation. Transportation needs were based off the build out and growth projections of the City's 2030 General Plan, and the Butte County Association of Governments (BCAG) travel demand model would be used to determine buildout improvement needs for this TCIP update. The proposed improvements would ensure that the minimum acceptable Level of Service (LOS) that has been assigned to each roadway/intersection will be maintained at full General Plan buildout. The existing lists are not in order of priority.

On October 3, 2017, the City Council approved the submittal of a list of roads and streets prioritized for rehabilitation to the California Transportation Commission (CTC) for compliance with CTC guidelines. The CTC required submittal by October 16, 2017, for the City to be eligible for additional funding under Senate Bill 1 (SB 1) and Assembly Bill 135 (AB 135). This list was only a draft and submitted to meet state mandated deadlines. The CTC does not "approve" or "deny" project lists, they simply gather all of the cities project lists. Future road rehabilitation lists will be brought to the Planning Commission for review and recommendation to the City Council for final approval. Therefore, the attached list (**Attachment D**) of projects will be reviewed and revised going forward.

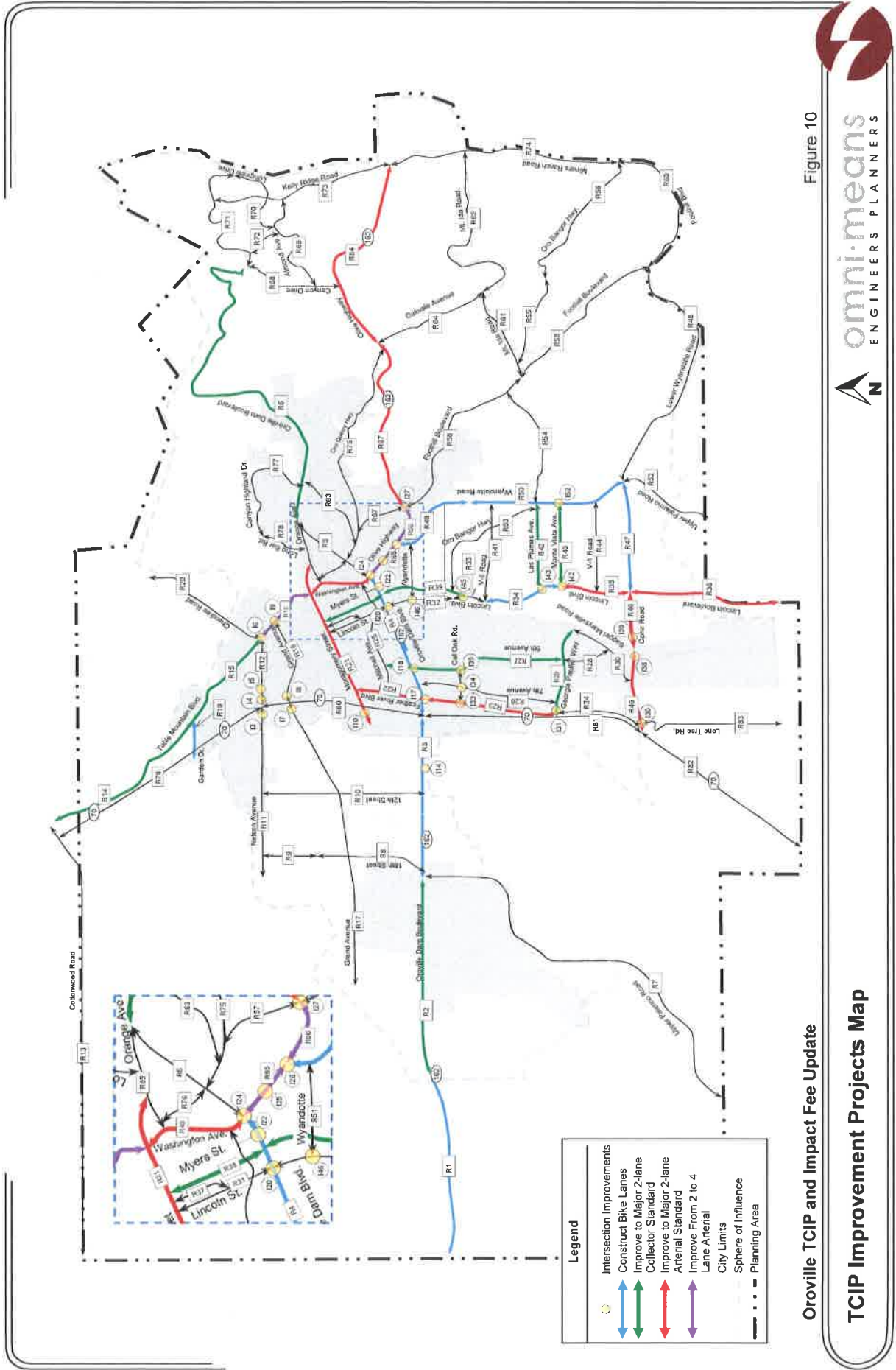
Staff recommends the Planning Commission forward a prioritized list of TCIP projects to the City Council for their review and consideration.

## **FISCAL IMPACT**

Varies by project and when construction occurs.

## **ATTACHMENTS**

- A – TCIP Projects Map
- B – TCIP Facility Improvements
- C – City Council Staff Report for 10/03/2017
- D – Projects List



Oroville TCIP and Impact Fee Update

### TCIP Improvement Projects Map

Figure 10



omni-means  
ENGINEERS PLANNERS



R:\08-TCIP\_Map.pdf



TABLE 22:  
TCIP INTERSECTION IMPROVEMENTS

ID	Intersection Name (1)	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost	
13	Nelson Avenue / SR 70 SB Ramps	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$1,300,000	\$0	\$1,300,000	
14	Nelson Avenue / SR 70 NB Ramps	Install Roundabout or Install Signal	\$0	\$1,300,000	\$0	\$1,300,000	
15	Nelson Avenue / Country Center Drive	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
16	Nelson Avenue / Table Mountain Blvd./Cherokee Rd. (2)	Install Roundabout or Install Signal & Add Eastbound & Westbound Left Turn Pockets	\$0	\$1,300,000	\$0	\$1,300,000	
17	Grand Avenue / SR 70 SB Ramps	Install Roundabout or Install Signal	\$0	\$1,300,000	\$0	\$1,300,000	
18	Grand Avenue / SR 70 NB Ramps	Install Roundabout or Install Signal & Add Left Turn Pockets & a Northbound Right Turn Pocket	\$0	\$1,300,000	\$0	\$1,300,000	
110	Montgomery Street / SR 70 SB Ramps	Install All-Way Stop Sign	\$0	\$60,000	\$0	\$60,000	
114	Oroville Dam Boulevard / 10th Street	Install Roundabout or Install Signal	\$0	\$660,000	\$0	\$660,000	
117	Oroville Dam Boulevard / Feather River Boulevard	Add Eastbound Right Turn Pocket, Second Northbound Left Turn Pocket, Southbound Right Turn Pocket, and Restripe Southbound Left-Right as a Left-Through. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,100,000	\$0	\$1,100,000	
118	Oroville Dam Boulevard / 5th Avenue	Add Dual Northbound Right Turn Pockets and Dedicated Southbound Right Turn Pocket. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,040,000	\$0	\$1,040,000	
120	Lincoln Boulevard / Oro Dam Boulevard	Add Second Northbound Through Lane and Second Southbound Left Turn Pocket. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,040,000	\$0	\$1,040,000	
122	Oroville Dam Boulevard / Spencer	Add Dedicated Northbound and Southbound Right Turn Pockets. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$970,000	\$0	\$970,000	
124	Oroville Dam Boulevard / Olive Highway	Add Second Eastbound Right Turn Pocket and Second Southbound Through Lane. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,040,000	\$0	\$1,040,000	
125	Olive Highway / Hospital Access	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000	
126	Lower Wyandotte Road / Olive Highway	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000	
127	Foothill Boulevard / Olive Highway	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000	
130	Ophir Road / Feather River Boulevard	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$0	\$1,300,000	\$1,300,000	
131	Feather River Boulevard / Georgia Pacific Way	Install Roundabout or Install Signal & Left Turn Pockets in All Directions and a Westbound Right Turn Pocket	\$0	\$0	\$1,300,000	\$1,300,000	
133	Feather River Boulevard / Cal Oak Road (3)	Install Roundabout or Install Signal & Northbound & Westbound Right Turn Pockets & Southbound Left Turn Pocket	\$0	\$660,000	\$0	\$660,000	
134	7th Avenue / Cal Oak Road	Install All-Way Stop Sign & Add Eastbound & Westbound Left Turn Pockets	\$0	\$0	\$200,000	\$200,000	
135	9th Avenue / Cal Oak Road	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$0	\$660,000	\$660,000	
138	Ophir Road / Baggett Palermo Road	Install Roundabout or Install Signal	\$0	\$0	\$1,300,000	\$1,300,000	
139	Ophir Road / Kusel Road	Install Roundabout or Install Signal	\$0	\$0	\$1,300,000	\$1,300,000	
142	Lincoln Boulevard / Monte Vista Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
143	Lincoln Boulevard / Walner Road	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
145	Lincoln Boulevard / Oroville	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
146	Lincoln Boulevard / Wyandotte Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
152	Lower Wyandotte Road / Monte Vista Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000	
			TOTAL:	\$0	\$13,670,000	\$10,020,000	\$33,690,000

Notes: (1) Improvements to intersections 28 and 29 have not been identified in this report and are not included in the updated TCIP or fee program. These locations are at-grade intersections with State Route 70. Long-term planning of the SR 70 corridor at this stage is subject to Caltrans planning and may include grade separated interchanges one or both of these locations. (2) Improvements to intersection 6 will also not be included in the TCIP as it will be constructed with outside funding sources. (3) Improvements to intersection 33 will be constructed as mitigations to the approved Walmart project and will not be included in the fee program.

TABLE 23:  
TCIP ROADWAY IMPROVEMENTS

ID	Roadway Name	From	To	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost	
R2	Oroville Dam Boulevard	Whitby Road/Larkin Avenue	Feather Avenue/Larkin Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$12,310,000	\$0	\$12,310,000	
R6	Oroville Dam Boulevard	Orange Avenue/Arceuth Avenue	Canyon Drive	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$17,389,167	\$0	\$12,420,833	\$29,810,000	
R15	Boulevard	Table Mountain Garden Drive	Nelson Avenue/Cherokee Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$3,816,296	\$0	\$3,543,704	\$7,360,000	
R16	Boulevard	Table Mountain Avenue/Cherokee Road	Montgomery Street	Widen to 4-Lane Arterial Standard by Adding Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$0	\$4,440,000	\$4,440,000	
R21	Montgomery Street	Park Entrance	Orange Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$5,320,000	\$5,320,000	
R22	Feather River Boulevard	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$1,580,000	\$1,580,000	
R23	Feather River Boulevard	Oroville Dam Boulevard	Georgia Pacific Way	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$4,023,185	\$0	\$4,294,815	\$8,320,000	
R27	5th Avenue	Mitchell Avenue	Georgia Pacific Way	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$5,598,889	\$0	\$5,171,111	\$10,770,000	
R29	Georgia Pacific Way	SR 70	Baggett Marysville Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$1,142,222	\$0	\$2,917,778	\$6,000,000	
R35	Lincoln Boulevard	Monte Vista Avenue	Ophir Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$2,538,261	\$0	\$1,631,739	\$4,170,000	
R36	Lincoln Boulevard	Ophir Road	Messina Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$5,533,041	\$0	\$3,556,957	\$9,000,000	
R38	Meyers Street	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$1,930,000	\$1,930,000	
R39	Meyers Street	Oroville Dam Boulevard	Lincoln Boulevard	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$3,220,000	\$3,220,000	
R40	Washington Avenue	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$0	\$1,860,000	\$1,860,000	
R42	Lee Pharris Avenue	Walner Road	Lower Wyandotte Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$3,003,704	\$0	\$3,346,296	\$6,950,000	
R43	Monte Vista Avenue	Lincoln Road	Lower Wyandotte Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$3,251,111	\$0	\$3,018,889	\$6,270,000	
R45	Ophir Road	SR 70	Baggett Palermo Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$5,910,435	\$0	\$3,709,565	\$9,710,000	
R46	Ophir Road	Baggett Palermo Road	Lincoln Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$10,700,870	\$0	\$6,879,130	\$17,580,000	
R65	Olive Highway	Oro Dam Boulevard	Lower Wyandotte Road	Widen to 4-Lane Arterial Standard by Adding Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$2,010,000	\$0	\$2,010,000	
R66	Olive Highway	Lower Wyandotte Road	Foothill Boulevard	Widen to 4-Lane Arterial Standard by Adding Center Turn Lane, Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$3,000,000	\$0	\$3,000,000	
R67	Olive Highway	Foothill Boulevard	Oakvale Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$10,740,000	\$0	\$10,740,000	
R84	Olive Highway	Oakvale Avenue	Messina Ranch Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$10,970,000	\$0	\$10,970,000	
					TOTAL:	\$66,079,183	\$39,030,000	\$68,360,817	\$174,070,000

TABLE 24:  
TCIP BICYCLE FACILITY IMPROVEMENTS

ID	Roadway Name	From	To	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost	
R19	Carden Drive	Park Entrance	Table Mountain Boulevard	Construct Bike Lanes	\$0	\$0	\$610,000	\$610,000	
R34	Lincoln Boulevard	Baggett Marysville Road	Monte Vista Avenue	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000	
R49	Lower Wyandotte Road	Olive Highway	V-7 Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000	
R50	Lower Wyandotte Road	V-7	Ophir Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000	
R47	Ophir Road	Lincoln Boulevard	Lower Wyandotte Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000	
R1	Oroville Dam Boulevard	SR 99	Whitby Road/Larkin Avenue	Add Bike Lanes (Striping)	\$0	\$60,000	\$0	\$60,000	
R3	Oroville Dam Boulevard	Feather Avenue/Larkin Road	SR 70	Add Bike Lanes (Striping)	\$0	\$60,000	\$0	\$60,000	
R4	Oroville Dam Boulevard	SR 70	Olive Highway	Add Bike Lanes (Striping)	\$0	\$140,000	\$0	\$140,000	
					TOTAL:	\$0	\$260,000	\$870,000	\$1,130,000



**OROVILLE CITY COUNCIL  
STAFF REPORT**

**TO: MAYOR DAHLMEIER AND COUNCIL MEMBERS**

**FROM: MIKE MASSARO, CONTRACT CITY ENGINEER  
PUBLIC WORKS DEPARTMENT**

**RE: PAVEMENT REHABILITATION LIST FOR SUBMITTAL TO  
CALIFORNIA TRANSPORTATION COMMISSION FOR FUNDING**

**DATE: OCTOBER 3, 2017**

**SUMMARY**

The Council may consider approving the submittal of a list of roads and streets prioritized for rehabilitation to the California Transportation Commission (CTC) for compliance with CTC guidelines. The CTC requires submittal by October 16, 2017, for the City to be eligible for additional funding under Senate Bill 1 (SB 1) and Assembly Bill 135 (AB 135).

**DISCUSSION**

Initial unofficial estimated Maintenance of Effort (MOE) amounts of required annual general fund spending for receipt of funds under the Road Repair and Accountability Act of 2017 (SB1 Beall) are now available. The Road Repair and Accountability Act of 2017 (SB1 Beall) includes a substantial boost in Local Streets and Roads Funding over the Highway Users Tax Account allocations that cities and counties have been receiving. The Act establishes a new "Road Maintenance and Rehabilitation Account (RMRA) in the state treasury and allocates amounts to cities and counties from that account based on statutory formulas.

The Road Repair and Accountability Act contains a local agency maintenance of effort (MOE) requirement that applies to funds allocated through the RMRA. The Act states that the MOE requirement is to ensure that these new roads funds do not supplant existing levels of city and county general revenue spending on streets and roads. The MOE for the receipt of RMRA funds state that a city or county must maintain general fund spending for street, road, and highway purposes at no less than average of 2009–10, 2010–11, and 2011–12 years. In making this calculation certain one-time funds may be excluded. A city or county that fails to comply in a particular year may make it up with in additional expenditures in the following year.

The Act provides that the State Controller may perform audits to ensure compliance with these MOE rules. If the State Controller determines that a city or county has not met it's MOE, the agency will be required to reimburse the state for the funds it received

during that fiscal year. However, a city or county that fails to comply in a particular fiscal year may expend during that fiscal year and the following fiscal year a total amount that is sufficient to comply. Any funds withheld or returned as a result of a failure to comply will be reapportioned to the other counties and cities whose expenditures are in compliance.

In order to maintain compliance with state requirements and assure that the City of Oroville continues to receive its share of funding, City Staff must submit our prioritized list of roads and streets for rehabilitation and repair. This list should be considered a DRAFT and is merely submitted at this time to meet state mandated deadlines. The CTC does not “approve” or “deny” project lists, they simply gather all of the cities project lists.

City Staff have affirmed that future road rehabilitation lists will be brought to the Planning Commission for comment and to the City Council for confirmation and approval. Therefore, the attached list of projects will be reviewed and revised going forward. The list provided to CTC can and will be updated in a few months with Planning Commission and City Council comments.

#### **FISCAL IMPACT**

No immediate impact to the City’s local transportation fund or general fund. However, submittal of list to CTC will assure future allocations of funding from the State to the City for road repair and rehabilitation.

#### **RECOMMENDATIONS**

Approve the submittal of the draft prioritization list of roads and streets for rehabilitation to the California Transportation Commission.

#### **ATTACHMENTS**

A – Local Streets and Roads Forms List for CTC



## Senate Bill (SB) 1 Proposed Project List Form

**Part 1: General Information****Local Streets and Roads Program****\*Agency Name:** (Select from dropdown list)

LoCode:

Oroville

5142

**\*Agency Address:****\*City:****\*ZIP Code:**

1735 Montgomery Street

Oroville

CA

95965

**\*Agency Contact:****\*Agency Contact Title:**

Michael Massaro

Contract City Engineer

**\*Agency Contact Phone No.:** (i.e. 1234567890)**\*Agency Contact Email Address:**

(916) 549-6935

mmassaro@ben-en.com

**Funding for Fiscal Year:**

FY 17/18

**\*Budget Support Documentation:?**

Please briefly describe the budget support documentation being provided.

Spreadsheet from Pavement Management System

**Average Network PCI:****Measurement Date:**

(Month)

(Year)

**Additional Information: ?**

Project List is based on prior condition assessment and prioritization list from pavement management system.

**Project Flexibility:**

Pursuant to SHC Section 2034(a)(1), this project list shall not limit the flexibility of an eligible city or county to fund projects in accordance with local needs and priorities, so long as the projects are consistent with SHC Section 2030(b). After submittal of the project list to the Commission, in the event a city or county elects to make changes to the project list pursuant to the statutory provision noted above, formal notification of the Commission is not required. However, the Project Expenditure Report form that is due to the Commission by October 1st each year, will provide an opportunity for jurisdictions to annually communicate such changes to the Commission as part of the regular reporting process.

**\* Required information**

**Part 2: Project Information**  
 Local Streets and Roads Program

Proposed Project (PPP)	LoCode	Project Title	Project ID (if any)	Project Type		Project Description	Project Location	Estimated Completion Date		State Assembly	Additional Project Elements					
				Type (Select from dropdown list)	Explanation (if "Other" is selected, please explain)			Pre-Construction (mm/yyyy)	Construction (mm/yyyy)		Sustainability	Technologies	Climate Change	Complete Streets Elements	Description of Elements	
PP01	5142	DRD DAM BL		Road Maintenance & Rehabilitation	repair - resurface	Highlands to Valley View Dr	12/2018	06/2019	5	15						
PP02	5142	DRANGE AV		Road Maintenance & Rehabilitation	repair - resurface	Long Bar	01/2018	06/2018	5	15						
PP03	5142	DRANGE AV		Road Maintenance & Rehabilitation	repair - resurface	Laurel Ave to Long Bar	01/2018	06/2018	5	15						
PP04	5142	DRANGE AV		Road Maintenance & Rehabilitation	repair - resurface	Felice Ct to Ascacia Ave	01/2018	06/2018	5	15						
PP05	5142	DRANGE AV		Road Maintenance & Rehabilitation	repair - resurface	Long Bar	01/2018	06/2018	5	15						
PP06	5142	DRANGE AV		Road Maintenance & Rehabilitation	repair - resurface	Bridge St. to Linden Ave	01/2018	06/2018	5	15						
PP07	5142	DRD QUINCY HY		Road Maintenance & Rehabilitation	repair - resurface	Myrtle Dr to Casa Loma Way	01/2018	06/2018	5	15						
PP08	5142	MONTGOMERY ST		Road Maintenance & Rehabilitation	repair - resurface	Washington Ave to Newton Ave			5	15						
PP09	5142	HIGHLANDS BL		Road Maintenance & Rehabilitation	repair - resurface	Rockridge Rd to Canyon Highlands Dr			5	15						
PP10	5142	FEATHER RIVER BL		Road Maintenance & Rehabilitation	repair - resurface	Pomona Ave to High St			5	15						
PP11	5142	SPENCER AV		Road Maintenance & Rehabilitation	repair - resurface	M. Conlin Dr to city limits			5	15						
PP12	5142	BAGGETT MANSVILLE RD		Road Maintenance & Rehabilitation	repair - resurface	Georgia Pacific Wy to city limits			5	15						
PP13	5142	FEATCH ST		Road Maintenance & Rehabilitation	repair - resurface	Dr. Dam			5	15						
PP14	5142	3TH AV		Road Maintenance & Rehabilitation	repair - resurface	Georgia Pacific Wy to Simpson Lane			5	15						
PP15	5142	FEATHER RIVER BL		Road Maintenance & Rehabilitation	repair - resurface	Dr. Dam Bl to Mitchell Ave			5	15						
PP16	5142	3TH AV		Road Maintenance & Rehabilitation	repair - resurface	High St. to Spruce St			5	15						
PP17	5142	CHEROKEE RD		Road Maintenance & Rehabilitation	repair - resurface	M. Conlin Dr to city limits			5	15						
PP18	5142	CAVET CT		Road Maintenance & Rehabilitation	repair - resurface	Newton Bl			5	15						
PP19	5142	LARKIN RD		Road Maintenance & Rehabilitation	repair - resurface	Minerva Way to Oro Dam Bl			5	15						
PP20	5142	GLEN DR		Road Maintenance & Rehabilitation	repair - resurface	Dr. Dam Bl			5	15						
PP21	5142	NORTH AV		Road Maintenance & Rehabilitation	repair - resurface	Ground Ave to end			5	15						
PP22	5142	MOONSHINE CT		Road Maintenance & Rehabilitation	repair - resurface	Burne Woods Dr			5	15						
PP23	5142	WOODCREST DR		Road Maintenance & Rehabilitation	repair - resurface	Dr. Quincy Hwy			5	15						
PP24	5142	GLEN DR		Road Maintenance & Rehabilitation	repair - resurface	Glen Circle Dr to Glenview way			5	15						
PP25	5142	SPENCER AV		Road Maintenance & Rehabilitation	repair - resurface	Wyandette Ave to Ohio St			5	15						
PP26	5142	BAGGETT PALMERO RD		Road Maintenance & Rehabilitation	repair - resurface	Railroad Ave to Dignity Bl			5	15						
PP27	5142	FAY WY		Road Maintenance & Rehabilitation	repair - resurface	Drive Hwy to Fay Way			5	15						
PP28	5142	DAK PARK AV		Road Maintenance & Rehabilitation	repair - resurface	Acacia Ave to Valley View Dr			5	15						
PP29	5142	STAUSS AV		Road Maintenance & Rehabilitation	repair - resurface	Stanford Ave to Canyon Highlands Dr			5	15						
PP30	5142	WHITCOMB AV		Road Maintenance & Rehabilitation	repair - resurface	Merrillgate Ave to Worthy Ave			5	15						
PP31	5142	3TH AV		Road Maintenance & Rehabilitation	repair - resurface	Simpson Ln to Ramo Way			5	15						
PP32	5142	COVENTRY DR		Road Maintenance & Rehabilitation	repair - resurface	Rockledge Rd to Linda Dr			5	15						

**Part 2: Project Information**  
**Local Streets and Roads Program**

\* Required

Proposed Project (PP#)	LnCode	* Project Title	Project ID (if any)	Project Type		* Project Description	* Project Location	* Estimated Completion Date		* Estimated Useful Life (in yr)		Legislative District(s)		Additional Project Elements (Does the project include element(s) as described in SHC 2030 (c)-(f)? (Select 'Y' from dropdown list)					
				Type (Select from dropdown list)	Explanation (if "Other" is selected, please explain)			Pre-Construction (mm/yyyy)	Construction (mm/yyyy)	Min.	Max.	State Senate	State Assembly	Sustainability	Technologies	Climate Change	Complete Streets Elements	Description of Elements	
PP33	5142	oak av		Road Maintenance & Rehabilitation		repair - resurface	100 Quincy Hwy to Pine Oak Rd			5	15								
PP34	5142	SAFCORD ST		Road Maintenance & Rehabilitation		repair - resurface	Feather River Bl to 5th St			5	15								
PP35	5142	VALLEY VIEW DR		Road Maintenance & Rehabilitation		repair - resurface	0 to Dawn Hill to Spawilla St			5	15								
PP36	5142	KORANIE GOLD RD		Road Maintenance & Rehabilitation		repair - resurface	Juniper Mill Rd to Nelson Ave			5	15								
PP37	5142	MOURNING DOVE LN		Road Maintenance & Rehabilitation		repair - resurface	Garage Golf Rd to Golden Eagle Rd			5	15								
PP38	5142	BUTTE WOODS DR		Road Maintenance & Rehabilitation		repair - resurface	End to Pleasant Oak Ln			5	15								
PP39	5142	GOLDEN EAGLE RD		Road Maintenance & Rehabilitation		repair - resurface	Suter Mill Rd			5	15								
PP40	5142																		
PP41	5142																		
PP42	5142																		
PP43	5142																		
PP44	5142																		
PP45	5142																		
PP46	5142																		
PP47	5142																		
PP48	5142																		
PP49	5142																		
PP50	5142																		

## Local Streets and Roads Program

<b>Agency Name:</b>		<b>Agency Contact:</b>	
Oroville		Michael Massaro	
		(916) 549-6935	
<b>LoCode:</b>	5142	mmassaro@ben-en.com	

FY
17/18

### Summary of Proposed Project List

Project No.	Project Title	Project Description	Project Location	Estimated Completion Date (mm/dd/yyyy)		Estimated Useful Life (# of yrs)	
				Pre-Construction	Construction	Min.	Max.
PP01	ORO DAM BL	repave - resurface	Highlands to Valley View Dr	12/2018	06/2019	5	15
PP02	ORANGE AV	repave - resurface	Long Bar	01/2018	06/2018	5	15
PP03	ORANGE AV	repave - resurface	Laurel Ave to Long Bar	01/2018	06/2018	5	15
PP04	ORANGE AV	repave - resurface	Felice Ct to Acacia Ave	01/2018	06/2018	5	15
PP05	ORANGE AV	repave - resurface	Long Bar	01/2018	06/2018	5	15
PP06	ORANGE AV	repave - resurface	Bridge St. to Linden Ave.	01/2018	06/2018	5	15
PP07	ORO QUINCY HY	repave - resurface	Myrtle Dr to Casa Loma Way			5	15
PP08	MONTGOMERY ST	repave - resurface	Washington Ave to Norton Ave			5	15
PP09	HIGHLANDS BL	repave - resurface	Rockridge Rd to Canyon Highlands Dr			5	15
PP10	FEATHER RIVER BL	repave - resurface	Pomona Ave to High St.			5	15
PP11	SPENCER AV	repave - resurface	Mitchell to Wilcox			5	15
PP12	BAGGETT MARYSVILLE RD	repave - resurface	Georgia Pacific Wy to City limits			5	15
PP13	VEATCH ST	repave - resurface	Oro Dam			5	15
PP14	5TH AV	repave - resurface	Georgia Pacific Wy to Simpcoc Lane			5	15
PP15	FEATHER RIVER BL	repave - resurface	Oro Dam Bl to Mitchell Ave			5	15
PP16	5TH AV	repave - resurface	High St. to Spruce St.			5	15
PP17	CHEROKEE RD	repave - resurface	la Colina Dr to city limits			5	15
PP18	CASEY CT	repave - resurface	Nelson Bl			5	15
PP19	LARKIN RD	repave - resurface	Mineral Way to Oro Dam Bl			5	15
PP20	GLEN DR	repave - resurface	Oro Dam Bl			5	15
PP21	WORTHY AV	repave - resurface	Grand Ave to end			5	15
PP22	MOONSHINE CT	repave - resurface	Butte Woods Dr			5	15
PP23	WOODCREST DR	repave - resurface	Oro Quincy Hwy			5	15

## Local Streets and Roads Program

<b>Agency Name:</b>		<b>Agency Contact:</b>	
Oroville		Michael Massaro	
		(916) 549-6935	
<b>LoCode:</b>	5142	mmassaro@ben-en.com	

FY	
17/18	

### Summary of Proposed Project List

Project No.	Project Title	Project Description	Project Location	Estimated Completion Date (mm/dd/yyyy)		Estimated Useful Life (# of yrs)	
				Pre-Construction	Construction	Min.	Max.
PP24	GLEN DR	repave - resurface	Glen Circle Dr to Glen view way			5	15
PP25	SPENCER AV	repave - resurface	Wyandotte Ave to Corto St			5	15
PP26	BAGGETT PALMERO RD	repave - resurface	Railroad Ave to Ophir Rd			5	15
PP27	FAY WY	repave - resurface	Olive Hwy to Fay Way			5	15
PP28	OAK PARK AV	repave - resurface	Acacia Ave to Valley View Dr.			5	15
PP29	STAUSS AV	repave - resurface	Stanford Ave to Canyon Highlands Dr			5	15
PP30	WHITCOMB AV	repave - resurface	Morningstar Ave to Worthy Ave			5	15
PP31	5TH AV	repave - resurface	Simpco Ln to Rainys Way			5	15
PP32	COVENTRY DR	repave - resurface	Rockridge Rd to Linda Dr			5	15
PP33	OAK AV	repave - resurface	Oro Quincy Hwy to Pine Oaks Rd			5	15
PP34	SAFFORD ST	repave - resurface	Feather River Bl to 5th St			5	15
PP35	VALLEY VIEW DR	repave - resurface	Oro Dam Bl to Service St.			5	15
PP36	COARSE GOLD RD	repave - resurface	Sutter Mill Rd to Nelson Ave			5	15
PP37	MOURNING DOVE LN	repave - resurface	Coarse Gold Rd to Golden Eagle Rd			5	15
PP38	BUTTE WOODS DR	repave - resurface	End to Pleasant Oak Ln			5	15
PP39	GOLDEN EAGLE RD	repave - resurface	Sutter Mill Rd			5	15
PP40							
PP41							
PP42							
PP43							
PP44							
PP45							
PP46							



TABLE 22:  
TCIP INTERSECTION IMPROVEMENTS

ID	Intersection Name (1)	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost
I3	Nelson Avenue / SR 70 SB Ramps	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$1,300,000	\$0	\$1,300,000
I4	Nelson Avenue / SR 70 NB Ramps	Install Roundabout or Install Signal	\$0	\$1,300,000	\$0	\$1,300,000
I5	Nelson Avenue / Country Center Drive	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
I6	Nelson Avenue / Table Mountain Blvd / Cherokee Rd. (2)	Install Roundabout or Install Signal & Add Eastbound & Westbound Left Turn Pockets	\$0	\$1,300,000	\$0	\$1,300,000
I7	Grand Avenue / SR 70 SB Ramps	Install Roundabout or Install Signal	\$0	\$1,300,000	\$0	\$1,300,000
I8	Grand Avenue / SR 70 NB Ramps	Install All-Way Stop Sign	\$0	\$1,300,000	\$0	\$1,300,000
I10	Bombogery Street / SR 70 SB Ramps	Install Roundabout or Install Signal	\$0	\$60,000	\$0	\$60,000
I14	Oroville Dam Boulevard / 10th Street	Install Roundabout or Install Signal	\$0	\$660,000	\$0	\$660,000
I17	Oroville Dam Boulevard / Feather River Boulevard	Add Eastbound Right Turn Pocket, Second Northbound Left Turn Pocket, Southbound Right Turn Pocket, and Restripe Southbound Left-Right as a Left- Through. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,100,000	\$0	\$1,100,000
I18	Oroville Dam Boulevard / 5th Avenue	Add Dual Northbound Right Turn Pockets and Dedicated Southbound Right Turn Pocket. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,040,000	\$0	\$1,040,000
I20	Lincoln Boulevard / Oro Dam Boulevard	Add Second Northbound Through Lane and Second Southbound Left Turn Pocket. Modify Signal to Accommodate Reconfiguration & Restripe Intersection	\$0	\$1,040,000	\$0	\$1,040,000
I22	Oroville Dam Boulevard / Spencer	Add Dedicated Northbound and Southbound Right Turn Pockets. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$970,000	\$0	\$970,000
I24	Oroville Dam Boulevard / Olive Highway	Add Second Eastbound Right Turn Pocket and Second Southbound Through Lane. Modify Signal to Accommodate Reconfiguration & Restripe Intersection.	\$0	\$1,040,000	\$0	\$1,040,000
I25	Olive Highway / Hospital Access	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000
I26	Lower Wyandotte Road / Olive Highway	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000
I27	Foothill Boulevard / Olive Highway	Modify Traffic Signal to Accommodate Roadway Widening on Olive Highway	\$0	\$200,000	\$0	\$200,000
I30	Ophir Road / Feather River Boulevard	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$0	\$1,300,000	\$1,300,000
I31	Feather River Boulevard / Georgia Pacific Way	Install Roundabout or Install Signal & Left Turn Pockets in All Directions and a Westbound Right Turn Pocket	\$0	\$0	\$1,300,000	\$1,300,000
I33	Feather River Boulevard / Cal Oak Road (3)	Install Roundabout or Install Signal & Northbound & Westbound Right Turn Pockets & Southbound Left Turn Pocket	\$0	\$660,000	\$0	\$660,000
I34	7th Avenue / Cal Oak Road	Install All-Way Stop Sign & Add Eastbound & Westbound Left Turn Pockets	\$0	\$0	\$200,000	\$200,000
I35	5th Avenue / Cal Oak Road	Install Roundabout or Install Signal & Add Left Turn Pockets in All Directions	\$0	\$0	\$660,000	\$660,000
I38	Ophir Road / Baggett Palermo Road	Install Roundabout or Install Signal	\$0	\$0	\$1,300,000	\$1,300,000
I39	Ophir Road / Kusel Road	Install Roundabout or Install Signal	\$0	\$0	\$1,300,000	\$1,300,000
I42	Lincoln Boulevard / Monte Vista Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
I43	Lincoln Boulevard / Walmer Road	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
I45	Lincoln Boulevard / Greenville	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
I46	Lincoln Boulevard / Wyandotte Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
I52	Lower Wyandotte Road / Monte Vista Avenue	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
<b>TOTAL:</b>			<b>\$0</b>	<b>\$13,670,000</b>	<b>\$10,020,000</b>	<b>\$23,690,000</b>

Notes: (1) Improvements to intersections 28 and 29 have not been identified in this report and are not included in the updated TCIP or fee program. These locations are at-grade intersections with State Route 70. Long-term planning of the SR 70 corridor at this stage is subject to Caltrans planning and may include grade separated interchanges one or both of these locations. (2) Improvements to intersection 6 will also not be included in the TCIP as it will be constructed with outside funding sources. (3) Improvements to intersection 33 will be constructed as mitigations to the approved Walmart project and will not be included in the fee program.

TABLE 23:  
TCIP ROADWAY IMPROVEMENTS

ID	Roadway Name	From	To	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost
R2	Oroville Dam Boulevard	Wilbur Road/Larkin Avenue	Feather Avenue/Larkin Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$12,310,000	\$0	\$12,310,000
R6	Oroville Dam Boulevard	Orange Avenue/Acacia Avenue	Canyon Drive	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$17,389,167	\$0	\$12,420,833	\$29,810,000
R15	Table Mountain Boulevard	Garden Drive	Nelson Avenue/Cherokee Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$3,816,296	\$0	\$3,543,704	\$7,360,000
R16	Table Mountain Boulevard	Nelson Avenue/Cherokee Road	Montgomery Street	Widen to 4-Lane Arterial Standard by Adding Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$0	\$4,440,000	\$4,440,000
R21	Montgomery Street	Park Entrance	Orange Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$5,320,000	\$5,320,000
R22	Feather River Boulevard	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$1,580,000	\$1,580,000
R23	Feather River Boulevard	Oroville Dam Boulevard	Georgia Pacific Way	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$4,625,185	\$0	\$4,294,815	\$8,920,000
R27	5th Avenue	Mitchell Avenue	Georgia Pacific Way	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$5,568,869	\$0	\$5,171,111	\$10,740,000
R29	Georgia Pacific Way	SR 70	Baggett Marysville Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$3,142,222	\$0	\$2,917,778	\$6,060,000
R35	Lincoln Boulevard	Monte Vista Avenue	Ophir Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$2,538,261	\$0	\$1,631,739	\$4,170,000
R36	Lincoln Boulevard	Ophir Road	Messina Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$5,533,043	\$0	\$3,556,957	\$9,090,000
R38	Meyers Street	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$1,930,000	\$1,930,000
R39	Meyers Street	Oroville Dam Boulevard	Lincoln Boulevard	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$0	\$3,250,000	\$3,250,000
R40	Washington Avenue	Montgomery Street	Oroville Dam Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$0	\$1,860,000	\$1,860,000
R42	Las Plumas Avenue	Walmer Road	Lower Wyandotte Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$3,603,704	\$0	\$3,346,296	\$6,950,000
R43	Monte Vista Avenue	Lincoln Road	Lower Wyandotte Road	Improve to Major 2-Lane Collector Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$3,251,111	\$0	\$3,018,889	\$6,270,000
R45	Ophir Road	SR 70	Baggett Palermo Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$5,910,435	\$0	\$3,799,565	\$9,710,000
R46	Ophir Road	Baggett Palermo Road	Lincoln Boulevard	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$10,700,870	\$0	\$6,879,130	\$17,580,000
R65	Olive Highway	Oro Dam Boulevard	Lower Wyandotte Road	Widen to 4-Lane Arterial Standard by Adding Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$2,010,000	\$0	\$2,010,000
R66	Olive Highway	Lower Wyandotte Road	Foothill Boulevard	Widen to 4-Lane Arterial Standard by Adding Center Turn Lane, Additional Travel Lanes, Bike Lanes, Sidewalk & Landscaping	\$0	\$3,000,000	\$0	\$3,000,000
R67	Olive Highway	Foothill Boulevard	Oakvale Avenue	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Bike Lanes, Sidewalk & Landscaping	\$0	\$10,740,000	\$0	\$10,740,000
R84	Olive Highway	Oakvale Avenue	Miners Ranch Road	Improve to Major 2-Lane Arterial Standard by Adding Center Turn Lane, Shoulder, Sidewalk & Landscaping	\$0	\$10,970,000	\$0	\$10,970,000
<b>TOTAL:</b>					<b>\$66,079,183</b>	<b>\$39,030,000</b>	<b>\$68,960,817</b>	<b>\$174,070,000</b>



**TABLE 24:  
TCIP BICYCLE FACILITY IMPROVEMENTS**

ID	Roadway Name	From	To	Improvement Description	Developer Cost	Non-TCIP Cost	Fee Cost	Total Cost
R19	Garden Drive	Park Entrance	Table Mountain Boulevard	Construct Bike Lanes	\$0	\$0	\$630,000	\$630,000
R34	Lincoln Boulevard	Baggett Marysville Road	Monte Vista Avenue	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000
R49	Lower Wyandotte Road	Olive Highway	V-7 Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000
R50	Lower Wyandotte Road	V-7	Ophir Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000
R47	Ophir Road	Lincoln Boulevard	Lower Wyandotte Road	Add Bike Lanes (Striping)	\$0	\$0	\$60,000	\$60,000
R1	Oroville Dam Boulevard	SR 99	Wilbur Road/Larkin Avenue	Add Bike Lanes (Striping)	\$0	\$60,000	\$0	\$60,000
R3	Oroville Dam Boulevard	Feather Avenue/Larkin Road	SR 70	Add Bike Lanes (Striping)	\$0	\$60,000	\$0	\$60,000
R4	Oroville Dam Boulevard	SR 70	Olive Highway	Add Bike Lanes (Striping)	\$0	\$140,000	\$0	\$140,000
<b>TOTAL:</b>					<b>\$0</b>	<b>\$260,000</b>	<b>\$870,000</b>	<b>\$1,130,000</b>