



# City of Oroville

**Donald Rust**  
DIRECTOR

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## COMMUNITY DEVELOPMENT DEPARTMENT

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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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## **PLANNING COMMISSION MEETING** **AGENDA**

**Thursday, February 22, 2018 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**

None.

**7. APPROVAL OF MINUTES**

Approve the minutes of the January 18, 2017 special Planning Commission meeting.

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**REGULAR AGENDA**

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**8. PUBLIC HEARINGS**

- 8.1 ZC 17-02: Restricting 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 restrict the sale of menthol cigarettes and other flavored tobacco products in the City of Oroville. *(This item continued from the January 18, 2018 Planning Commission Meeting)*

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

**Adopt Resolution No. P2018-01:** A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND ORDINANCE NO. 1794 FOR THE PURPOSE OF RESTRICTING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS TO SMOKE SHOPS ONLY

**9. REGULAR BUSINESS**

- 9.1 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.

- 9.2 Smart & Final: Finding of Public Convenience or Necessity (Type 21)** – The Oroville Planning Commission will review and consider 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 355 Oro Dam Boulevard (APN: 035-030-080), the future location to a new Smart & Final.

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

**Adopt Resolution No. P2018-02:** 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 355 ORO DAM BOULEVARD, OROVILLE, CA 95965 (APN: 035-030-080).

- 9.3 Feather River Crossing Sign Program** – The Oroville Planning Commission will review and consider a proposed sign program for the Feather River Crossing shopping center at 355 Oro Dam Boulevard E (APN: 035-030-080), and providing staff direction to return with an amendment to the existing sign program to allow for greater flexibility.

Staff Report: Luis A. Topete, Associate Planner

**Staff Recommendation:**

Staff is seeking guidance from the Planning Commission regarding the proposed sign program for the Feather River Crossing shopping center and direction for staff to return with an amendment to the existing sign program to allow for greater flexibility.

**10. DISCUSSION ITEMS**

None.

**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, March 22, 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.*



**CITY OF OROVILLE  
PLANNING COMMISSION SPECIAL MEETING MINUTES  
JANUARY 18, 2018 – 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 January 18, 2018 special 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 Tuesday, January 16, 2018, at 10:35 a.m.

**1. CALL TO ORDER**

The January 18, 2018 special meeting of the Oroville Planning Commission was called to order by Chairperson Robison, at 7:00 p.m.

**2. ROLL CALL**

Present: Commissioners Britton, Jenkins, Vice Chairperson Durling, Chairperson Robison

Absent: Commissioner Brand (excused), Chapman (excused), McDavitt (excused)

**Staff Present:**

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Donald Rust, Acting City Administrator

Luis Topete, Associate Planner

Dawn Nevers, SBF Program Specialist/Clerk Recorder

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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**

Bruce Baldwin - Item No. 8.1  
Carin Chwastyk – Item No. 8.1  
Shelly Brantley – Item No. 8.1  
Celia Hirschman – Item No. 8.1  
Tim Gibbs – Item No. 8.1

Devin Archie – Item No. 8.1  
Ellen Michels – Item No. 8.1  
Michelle Mori – Item No. 8.1  
Javi Pinedo – Item No. 8.1  
Dolores Vasquez – Item No. 8.1

**5. PUBLIC COMMENT - None**

6. CORRESPONDENCE - None

7. APPROVAL OF MINUTES

Approval of the minutes of the December 14, 2017 special Planning Commission meeting.

A motion was made by Commissioner Jenkins, seconded by Vice Chairperson Durling, to:

**Approve the minutes of the December 14, 2017 special Planning Commission meeting.**

The motion was passed by the following vote:

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

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**REGULAR AGENDA**

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8. PUBLIC HEARINGS

8.1 **ZC 17-02: Prohibiting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products** – staff report

The Oroville Planning Commission conducted 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 (***This item continued from the December 14, 2017 Planning Commission Meeting***) (Luis A. Topete, Associate Planner)

DeAnne Blankenship, Director of Program Services, California Health Collaborative, gave a presentation to the Planning Commission regarding flavored tobacco.

Chairperson Robison opened the public hearing.

Bruce Baldwin, Devin Archie, Ellen Michels, Carin Chwatyk, Shelly Brantley, Michelle Mori, Celia Hirschman, Javi Pinedo, Tim Gibbs and Dolores Vasquez all spoke in support of prohibiting the sale of menthol cigarettes and other flavored tobacco products and increasing the fee of a tobacco retail license.

Hearing no further comments, the public hearing was closed.

Following discussion, a motion was made by Vice Chairperson Durling, seconded by Commissioner Jenkins, to:

**Adopt Resolution No. P2017-18: A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL INCREASE THE FEE OF A TABACCO RETAIL LICENSE**

**Additionally, the Planning Commission continued the discussion of restricting menthol cigarettes and other flavored tobacco products to the next regular Planning Commission meeting.**

The motion was passed by the following vote:

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

**9. REGULAR BUSINESS**

**9.1 Prioritization of the Transportation Capital Improvement Program (TCIP) Projects List – staff report**

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)**

Following discussion, the Commission requested the item be continued to the next regular meeting of the Oroville Planning Commission.

**10. DISCUSSION ITEMS**

The Commission discussed the stop light at Orange Avenue and Oro Dam Boulevard.

**DIRECTOR'S REPORT**

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

- Staff updates
- Development of former Walmart property – update
- City Council approval of zoning change for 1355 Washington Avenue.
- Cannabis discussion help at the December 5, 2017 City Council meeting

**11. CHAIRPERSON/COMMISSIONERS REPORTS - none**

14. **ADJOURNMENT**

The meeting was adjourned at 8:55 p.m. A regular meeting of the Oroville Planning Commission will be held on Thursday, February 22, 2018, 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

February 22, 2018

**ZC 17-02: Restricting 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 restrict the sale of menthol cigarettes and other flavored tobacco products in the City of Oroville. *(This item continued from the January 18, 2018 Planning Commission Meeting)*

**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 restrict the sale of menthol cigarettes and other flavored tobacco products in the City of Oroville; 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 A**); and
3. **ADOPT** Resolution No. P2018-01 (**Attachment B**).

## **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.

On December 14, 2017, the Planning Commission reviewed and continued this item to the following Planning Commission meeting.

On January 18, 2018, the Planning Commission forwarded a recommendation to the City Council to approve a fee increase for a tobacco retailer license from \$36 to \$238.64, an increase of \$202.64 from the existing fee. The topic of restricting flavored tobacco products was continued to the following Planning Commission meeting.

## **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 C**)

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 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.

Based off the previous discussion at the January 18, 2017 Planning Commission meeting, the proposed ordinance has been amended to restrict the sale of all flavored tobacco products throughout the City, with only smoke shops excluded. Smoke shops are defined by the City's Municipal Code as 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 or character.

## **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."

## **FISCAL IMPACT**

Fees that are collected through the Tobacco Retailer License are intended to cover the cost of City staff time spent on work tasks related to the administration and enforcement 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.

## **ATTACHMENTS**

- A – Notice of Exemption
- B – Resolution No. P2018-01
- C – Policy Options Fact Sheet
- D – Flavored Tobacco Products Fact Sheet
- E – Policy Matrix of Other California Cities
- F – Ordinance No. 1794
- G – Public Comments Received



# ATTACHMENT - A



## City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

**Donald Rust**  
DIRECTOR

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### 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: Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products

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 restrict the sale of menthol cigarettes and other flavored tobacco products in the City of Oroville.

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 proposed ordinance may have a significant effect on the environment. Therefore, this action 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

# ATTACHMENT - B

## RESOLUTION NO. P2018-01

### A RESOLUTION OF INTENTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND ORDINANCE NO. 1794 FOR THE PURPOSE OF RESTRICTING THE SALE OF MENTHOL CIGARETTES AND OTHER FLAVORED TOBACCO PRODUCTS TO SMOKE SHOPS ONLY

**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**, 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 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) With the exception of Smoke Shops, as defined by the Oroville Municipal Code, 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.

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**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 22<sup>nd</sup> day of February, 2018 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

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

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



# ATTACHMENT - C



## 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].

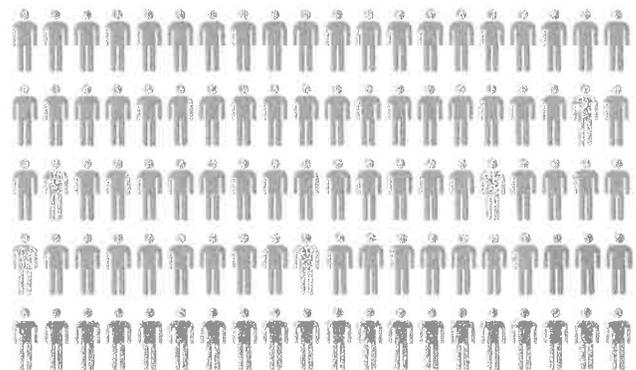


Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophagus cancer [9]. Heavy cigar use and deep inhalation has also been linked to elevated risk of heart disease and chronic obstructive pulmonary disease [10].

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

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].



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

## Smokeless Tobacco

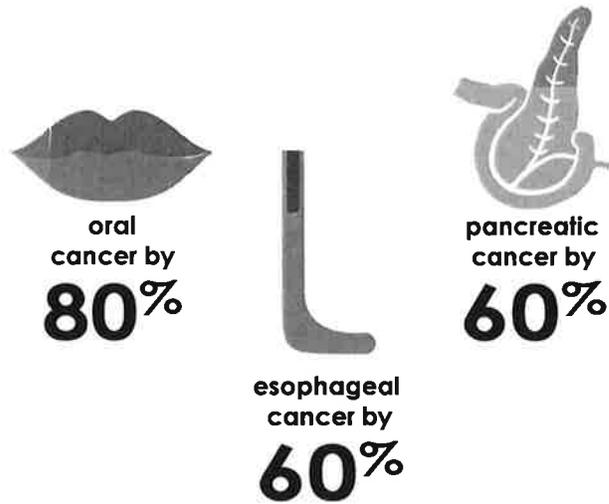


Smokeless tobacco products include chewing tobacco, dip, snuff, and snus and come in flavors such as mint, wintergreen, berry, cherry, and apple [12].

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

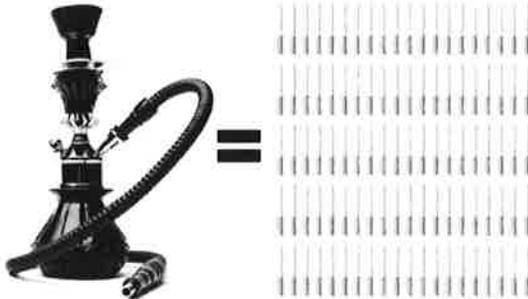


## Shisha or Hookah Tobacco

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].

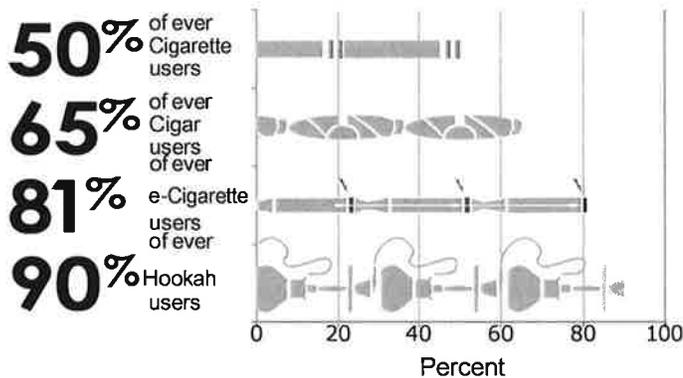
E-liquid solutions contain varying concentrations of nicotine, ranging from no nicotine to 100 mg per milliliter (a milliliter is approximately a fifth of a teaspoon). The lethal dose of nicotine is estimated to be 60 mg or less for an adult and 10 mg for a child. The toxicity of a 60 mg dose of liquid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

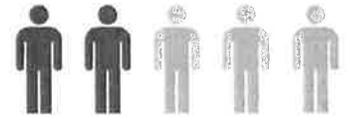
Teens report that their tobacco use typically started with a flavored tobacco product. One study reported that almost 90 percent of ever hookah users, 81 percent of ever e-cigarette users, 65 percent of ever users of any cigar type, and 50 percent of ever cigarette smokers said the first tobacco product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

diacetyl  
in  
**75%**  
of flavored  
e-cigarette  
liquids and  
refill liquids  
tested



at least one of the  
three flavoring  
chemicals  
(diacetyl,  
2,3-pentanedione,  
or acetoin) in  
**92%**  
of the tested  
e-cigarettes  
and liquids [7]

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# ATTACHMENT - E

9/1/17

## California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Law or Policy	Products Covered by Policy	Menthol Included	Adopted/Effective Date	Exemptions	Notes	Enforcement	Compliance
<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 seroots 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>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>No</p>
<p><b>Contra Costa County</b> 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>A tobacco retailer's license may be suspended for any violation of the ordinance  A tobacco retailer's 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>	<p>No</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Ordinance	Element of Policy	Products Covered by Policy	Menthol Included	Effective Date	Notes	Professional	Grandfathering
<p><b>El Cerrito</b> Ordinance No. 2015-08</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-tobacco products)</p>	<p>Adopted: October 2015 Effective: January 1, 2018</p>	<p>Menthol cigarettes are not included in restrictions</p> <p>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</p> <p>Single cigar sales prohibited, package of cigars must have at least 5 cigars (except single cigars over \$5)</p> <p>Tobacco samples &amp; coupon prohibited (except as allowed in adult-only businesses per state and federal law)</p> <p>Self-service displays of tobacco products prohibited</p> <p>Hookah lounges, cigar lounges, vape shops, or similar establishments are prohibited within the city</p> <p>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</p> <p>"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</p> <p>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</p> <p>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</p> <p>Community Development Director, Chief of Police has right to enter and inspect tobacco retailers</p> <p>TRL may be suspended or revoked accordingly for violations within a 3 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</p> <p>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 through the City's Tobacco Retailer Licensing Ordinance</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Sales	Enforcement	Comments
<p><b>Hayward</b>                      Municipal Code Sec. 10-1.2780                      See also Frequently Asked Questions found here</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-cigarette tobacco products)</p>	<p>Adopted: July 1, 2014                      Effective: August 1, 2014</p>	<p>Menthol cigarettes are not included in restrictions. Retailers that sold products before 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>Yes--Retailers selling flavored tobacco products prior to the ordinance effective date are exempt</p>
<p><b>Los Gatos</b>                      Ordinance No. 2759</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 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>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>	<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	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Enforcement	Notes	Influenced	Compliance
<p><b>Manhattan Beach</b> Ordinance No. 15-0020</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 ESD's, 2) generates over 60% of its gross revenues annually from the sale of tobacco products, tobacco paraphernalia, or ESD's, 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>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><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 designates the Department to enforce the provisions of this Ordinance  A. After a first alleged violation of this Chapter at a location within any sixty-month (60) period:  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  B. After a second alleged violation of this Chapter at a location within any sixty-month (60) period:  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>	<p>No</p>

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
<b>Novato</b> Ordinance No. 1615	Prohibits the sale of all flavored tobacco (with the exception of menthol) products, including marijuana, within the city limits	All flavored tobacco products, including e-cigarettes and menthol (menthol excluded)	No	First adopted: January 31, 2017 Effective: January 1, 2018	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	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	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	No
<b>San Francisco</b> Ordinance No. 140-17	Prohibits the sale of all flavored tobacco products, including menthol cigarettes, within the county limits	All flavored tobacco products, including e-cigarettes and menthol cigarettes	Yes	Adopted: June 27, 2017 Effective: April 1, 2018	None	This policy is an amendment of the Health Code, Article 19Q, 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 is 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.	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 19Q.3 (Sale or Distribution of Flavored Tobacco Products Prohibited) or 19Q.4, the Director may suspend a Tobacco Sales permit as set forth in Section 19H.19.	No
<b>Santa Clara County</b> Ordinance No. NS-300 993  Revised Ordinance 300 903 effective July 2017	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	All flavored tobacco products, including e-cigarettes and menthol cigarettes	Yes (revised in 2016 to include menthol)	First adopted: June 2015 Effective: January 1, 2016 Revised version effective: July 2017	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	No TRLs may be issued to a retailer containing a pharmacy, within 1,000 feet of a school (existing retailers exempt), or located within 500 feet of another retailer (existing retailers exempt)	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, \$500; 2 <sup>nd</sup> violation, \$500; additional violation, license may furthermore be suspended for violations within any 24-month period. 1 <sup>st</sup> /30 days, 2 <sup>nd</sup> /90 days, additional violations/up to one year	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)

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Essence of Policy	Products Covered by Policy	Menthol Incidental	Effective Date	Investigations	Notes	Enforcement	Grandfathering
<b>Sonoma</b> Municipal Code Chapter 7-25	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	Decoy 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> Ordinance No. 165921	Prohibits the sale of all 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> Ordinance No. 1474	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 suing for any violations 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

# ATTACHMENT - F

## 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 WRONGLY 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

<u># of City Residents (Range)</u>	<u># of Smoke Shops Allowed</u>
<u>X</u>	<u>Z</u>
<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

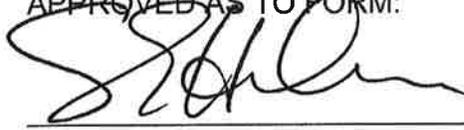
NOES: None

ABSTAIN: None

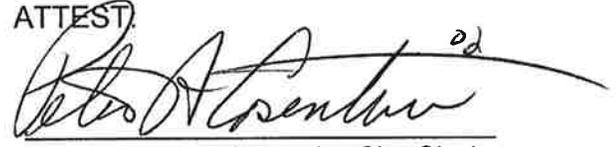
ABSENT: None

  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

  
Scott E. Huber, City Attorney

ATTEST:

  
Peter Cosentini, Interim City Clerk



December 6, 2017

Oroville City Hall  
City of Oroville  
1735 Montgomery Street  
Oroville, CA 95965

Dear City of Oroville Planning Commission:

On behalf of the American Lung Association in California, the leading public health organization fighting to reduce and prevent lung disease, I am writing to express strong support for the ordinance prohibiting the sale of all flavored tobacco products, including menthol.

Each year in California, nearly 40,000 adults die from smoking-related causes and over 11,000 kids become new daily smokers. According to a 2012 Report of the U.S. Surgeon General, tobacco companies have a long history of using flavored products to entice new, younger customers. Eight out of ten youth smokers report that they initiated tobacco use with a flavored tobacco product, and the younger a person is the more likely they will be to use a flavored tobacco product.

Despite the FDA's 2009 ban on the sale of flavored cigarettes, the market for other types of flavored tobacco products such as cigars and e-cigarettes is growing rapidly. Additionally, menthol flavors were excluded from the FDA ban despite the evidence that menthol is also a driving factor in tobacco initiation.

The American Lung Association stands in strong support of ordinances that prohibit the sale of flavored tobacco, including menthol products. These products present a unique set of challenges, both in their health risks and in the populations they affect. Menthol tobacco is disproportionately used by certain populations, with over 80% of African American smokers and over 70% of LGBT smokers choosing these products. Furthermore, we know that menthol users tend to be more addicted and less able to quit smoking than non-menthol users.

By eliminating the flavored products that attract young tobacco users, and increasing the fee to obtain a tobacco retailer license, thereby providing critical policy enforcement and implementation, this ordinance will take an important step toward reducing youth and young adult tobacco use and work to eliminate illegal sales of tobacco products.

Thank you for your leadership and we hope that Oroville will adopt this ordinance and set a healthy example for our neighboring communities.

Sincerely,



Vanessa Marvin  
VP Public Policy and Advocacy





February 2, 2018

Damon Robison  
Chairman  
Oroville Planning Commission  
1735 Montgomery Street  
Oroville, CA 95965

Re: Flavored Tobacco Sales Ban

Dear Chairman Robison,

I write on behalf of the American Petroleum and Convenience Store Association (APCA), a grassroots organization of independent gasoline and convenience store owners located throughout the state of California including Oroville.

It is our understanding that the Planning Commission will continue its discussion of a proposed ban on the sale of flavored tobacco at its next regularly scheduled meeting on February 22, 2018. APCA opposes flavor bans and we urge you to consider the impact that this ordinance will have on small businesses that operate in the City and on city tax revenues.

Tobacco is a key category for retailers because it drives foot traffic and incidental sales within stores. The inability to sell flavored tobacco has a significant financial impact on a store. In other municipalities that have enacted similar bans, retailers have reported up to 15% revenue loss. Retailers operate on thin profit margins and the loss of important products can mean going out of business.

Limiting the sale of flavored tobacco products to smoke shops is also problematic and unfair to the responsible tobacco retailers in Oroville who check ID and make sure that tobacco is not sold to minors. The 2016 Youth Tobacco Purchase Survey, conducted by the California Department of Public Health found that nearly one-third of stores that exclusively sell tobacco sold cigarettes to teens during the course of the survey. **The lowest rates of illegal sales were found at stand-alone convenience stores (5.7 percent) and drug stores and pharmacies (0 percent).**

Flavored tobacco bans also have an impact on city revenue. As the City of San Francisco noted in its staff report that accompanied its flavored tobacco ban, the City's Office of Economic Analysis (OEA) determined that the flavor ban would have a material economic impact on the city's economy. OEA estimated the value of flavored tobacco to be approximately \$50 million dollars. ***The OEA analysis also noted that consumers would switch to retailers outside the city or online resulting in a net loss to local retailers and the City's economy without any countervailing benefit.***

Over the past 2 years, many new state laws and taxes have been enacted by the state that renders further local regulation unnecessary:

In 2016, the State passed six bills that further regulate the sale and use of tobacco including raising the minimum age to purchase tobacco products to age 21, regulating e-cigarettes as tobacco products and expanding the ban on smoking in workplaces. 

Additionally, the Board of Equalization increased its state licensing fees from a one-time fee of \$100 for a tobacco license to an annual license fee of \$265. This fee increase is intended to provide the BOE with more revenue to ensure that tobacco retailers are in compliance with state tobacco laws. 

Finally, the passage of Prop 56 increased the tax on cigarettes by \$2 per pack effective April 1, 2017. 

The intent of these measures was to reduce youth access to tobacco products and reduce the rate of smoking statewide. Indeed, professor of medicine and director of the UCSF Center for Tobacco Control Research and Education Stanton Glantz has stated that the \$2 tax increase will cut smoking prevalence over the next 5 years to around 7 percent.

Given these facts, we urge you to recommend that the Council reject a ban on the sale of flavored tobacco in Oroville.

Sincerely yours,

Manraj Natt  
Chairman

cc: Luis Topete, City Planning  
City Council

Oroville Planning Commission  
Oroville City Hall  
1735 Montgomery Street  
Oroville, CA 95965

12/12/2017

Bruce Baldwin  
3834 Adell lane  
Oroville CA, 95965

Dear Planning Commission Members,

I write you today in support of the proposed Tobacco Retail License ordinance, which would ban the sale of flavored tobacco products in the City of Oroville. As a former smoker myself I strongly support any and all actions that protect young people from tobacco and nicotine addiction, and I believe this ordinance would be highly successful in providing that protection.

Purveyors of addictive e-cigs and e-juices often portray them as a healthful alternative to tobacco use and as way for people to quit smoking. While a small percentage of the flavored products sold may be used in that way, there is absolutely no evidence that vaping helps people quit smoking. In fact, quite the opposite is true. In a recent study published in the journal *Pediatrics* (Bold, K.W.; Kong, G.; Camenga, D.R.; Simon, P.; Cavallo, D.A.; Morean, M.E.; Krishnan-Sarin, S. 4 December 2017) the authors found just the opposite, that e-cig use leads to increased cigarette use by young people. In fact they concluded; *"Results found that past-month e-cigarette use predicted future cigarette use. **Students who recently used e-cigarettes were more than 7 times as likely as non-users to smoke cigarettes in the second year.**"*

Flavored e-juices and e-cigs are clearly designed to appeal to youth, any adult trying to quit would want their e-cig to taste like tobacco, not cotton candy! Removing these products from the shelves of Oroville stores will not only protect our youth, this well thought out and forward thinking ordinance will set a trend for the county and the region. Let's show our kids we care, please move this ordinance forward.

Sincerely,

Bruce Baldwin





January 16, 2018

Oroville City Hall  
1735 Montgomery Street  
Oroville, CA 95965

Re: Support—Ordinance .to prohibit the sale of menthol and other flavored tobacco products and approve a fee increase for a tobacco retail license

Dear Chairperson Robinson and Members of the Oroville Planning Commission:

The American Cancer Society Cancer Action Network is committed to protecting the health and well-being of the citizens of Oroville through evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As such, we are writing to support the effort to prohibit the sale of menthol and other flavored tobacco products citywide and to increase the fee for a tobacco retail license. This is an effort to protect the young people in Oroville from a deadly lifelong addiction. While the proposal would prohibit the sale of flavored tobacco products in Oroville, there is NO prohibition on using or possessing those deadly products in the city.

The 2014 Surgeon General's Report found that more than 43 million Americans still smoke, and tobacco will cause an estimated 480,000 deaths this year in the U.S. Of the 9 million youth currently living in our state, nearly 1.4 million of them will become smokers, and approximately 440,000 of those kids will die prematurely as a result of tobacco use.

In 2009, Congress, prohibited the sale of cigarettes with flavors other than tobacco or menthol. Tobacco companies responded by expanding the types of non-cigarette flavored tobacco products they offer, and now make most of those products available in a growing array of kid-friendly flavors. Little cigars, smokeless tobacco, and e-cigarettes are marketed in a wide array of sweet flavors and colorful packaging that appeals to youth. According to the California Department of Public Health, young people are much more likely to use candy and fruit flavored products than adults. Prohibiting the sale of flavored tobacco products, including menthol cigarettes, helps to remove some of the appeal of these products to beginning smokers.

Adolescents are still going through critical periods of brain growth and development, and they are especially vulnerable to the toxic effects of nicotine. Both opponents of smoking and purveyors of cigarettes have long recognized the significance of adolescence as the period during which smoking behaviors are typically developed. The anesthetizing effect of menthol masks the harshness of tobacco, making menthol cigarettes more appealing to beginning smokers, and menthol smokers demonstrate greater dependence, and are less likely to quit.

California Office  
1029 J Street, Suite 450 • Sacramento, CA 95814  
t) 916.448.0500 • f) 916.447.6931



While cigarette smoking has declined in the U.S., sales of menthol cigarettes have steadily increased in recent years, especially among young people and new smokers. Prohibiting the sale of flavored tobacco products can help to keep kids from ever starting to smoke, and can encourage those who do smoke to quit. We should be doing everything we can to protect young people from ever establishing this deadly addiction, and the cancer it causes, as well as supporting those who are trying to quit. We also support the effort to raise the tobacco licensing fees to whatever law enforcement deems necessary to adequately enforce youth access laws. ACS CAN appreciates Oroville's leadership in bringing these issues forward, and we encourage the planning commission to send this critical proposal back to the city council with a support recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Gibbs", is positioned below the word "Sincerely,".

Tim Gibbs  
Senior Director, Government Relations

Cc: Members, Oroville Planning Commission

California Office  
1029 J Street, Suite 450 • Sacramento, CA 95814  
t) 916.448.0500 • f) 916.447.6931

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](mailto:abrodsky@chicousd.org)



January 10, 2018

City of Oroville Planning Commission  
Attention: Damon Robison  
1735 Montgomery Street  
Oroville, CA 95965

Dear Mr. Robison and Planning Commission Members:

Youth tobacco use in Oroville is one of the highest in the state! A city ordinance that prohibits the sale of menthol and other flavored tobacco products citywide, as well as approving a fee increase for a retail tobacco license will show the city that you care about the children of Oroville.

The tobacco industry is targeting our youth with products that mimic fruit and candy flavors in small cigars, chewing tobacco, hookahs, electronic cigarettes and e-liquids, which all lead to nicotine addiction. I am writing to show my support for a city ordinance that prohibits the sale of menthol and other flavored tobacco products in the City of Oroville, as well as approving a fee increase for a tobacco retail license.

Sincerely,

A handwritten signature in cursive script that reads "Peggy Bartley".

Peggy Bartley  
489 Silver Leaf Drive  
Oroville, CA 95966



January 10, 2018

City of Oroville Planning Commission  
Attention: Damon Robison  
1735 Montgomery Street  
Oroville, CA 95965

Dear Mr. Robison and Planning Commission Members:

As a concerned citizen of Oroville, I am writing to show my support for a city ordinance that prohibits the sale of menthol and other flavored tobacco products in the City of Oroville, as well as approving a fee increase for a tobacco retail license.

"Big Tobacco" is targeting our youth with products that mimic fruit and candy flavors in small cigars, chewing tobacco, hookahs, electronic cigarettes and e-liquids, which all lead to nicotine addiction.

Youth tobacco use in Oroville is one of the highest in the state! A city ordinance that prohibits the sale of menthol and other flavored tobacco products citywide, as well as approving a fee increase for a retail tobacco license will show the city that you care about our residents and uphold the mission statement of Oroville "...dedicated to serving the public, ensuring the safety and vitality of the community and promoting prosperity for all."

Sincerely,

A handwritten signature in black ink, appearing to read "John Carreras", written over a light blue horizontal line.

John Carreras  
489 Silver Leaf Drive  
Oroville, CA 95966



**SASC | Students Advocates for Sutter County**  
**Established 2014**

**Contact: [sasc\\_youth@gmail.com](mailto:sasc_youth@gmail.com)**

December 13, 2017

City of Oroville City Council members



**RE: Menthol and Flavored Tobacco Policy**

The *Students Advocates for Sutter County* (SASC) is a coalition made up of youth in grades 9-12 who work together to promote healthy lifestyles through community health education and youth advocacy activities. In the past year we have advocated for smoke free parks, educated CA Legislators at the State Capitol, shared our youth voice at City Council meetings and conducted surveys and healthy retail assessments at all the tobacco stores in Sutter County. Partnering with local agencies that can make an impact on people's health is important to us.

We want to congratulate the City of Oroville for their decision to pursue an ordinance eliminating the sale of menthol and other flavored tobacco in their communities, to protect their youth from the harms of tobacco use. The U.S. Surgeon General has warned that flavored tobacco products help new users establish habits that can lead to long-term addiction. [1]

Sweet flavors like watermelon, cherry, chocolate, mint and gummy bear appeal to kids and teens. [2] We know that flavored tobacco products often use the same flavoring chemicals as popular brands like Jolly Rancher, Kool-Aid, and Life Savers. [3] A majority of youth report flavoring as a leading reason for using tobacco products. In fact 80% of young people who have ever used tobacco started with a flavored tobacco product [4] and 7 out of 10 teens who use tobacco have used a flavored product in the past 30 days. [5]

The SASC youth coalition would like to offer you our support as you take this critical step to preventing another generation of young people from living with a lifetime of addiction by prohibiting the sale of all flavored tobacco products. Together, we can help our communities "Breathe Easy!"

Sincerely,

*Catherine*  
President

*Natalie*  
Vice President

*Raeleigh*  
Secretary

***Students Advocates of Sutter County***

Citations:

1. U.S. Department of Health and Human Services, Preventing tobacco use among youth and young adults: a report of the Surgeon General. Atlanta, GA: US Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2012. 3.
2. King, B.A., S.R. Dube, and M.A. Tynan, Flavored cigar smoking among US adults: findings from the 2009-2010 National Adult Tobacco Survey. *Nicotine & Tobacco Research*, 2013. 15(2): p.608-614.
3. Brown, J.E., et al., Candy flavorings in tobacco. *New England Journal of Medicine*, 2014. 370(23): p. 2250-2252.
4. Ambrose, B.K., et al., *Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014*. *JAMA*, 2015: p. 1-3
5. Corey, C.G., et al., *Flavored tobacco product use among middle and high school students – United States, 2014*. *MMWR Morbidity and Mortality Weekly Report*, 2015. 64(38): p. 1066-1070.



# 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

February 22, 2018

**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.**

**APPLICANT:** Oroville Planning Commission  
1735 Montgomery Street  
Oroville, CA 95965

**LOCATION:** Citywide

**GENERAL PLAN:** N/A  
**ZONING:** N/A  
**FLOOD ZONE:** N/A

**REPORT PREPARED BY:**

Luis A. Topete, Associate Planner  
Community Development Department

**REVIEWED BY:**

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.

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 Intersection Improvements
- B – TCIP Roadway Improvements
- C – TCIP Bicycle Facility Improvements

# ATTACHMENT - A

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	5th 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 / Kuseal 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 / Walmer Road	Install Roundabout or Install Signal	\$0	\$0	\$660,000	\$660,000
145	Lincoln Boulevard / Greenville	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
<b>TOTAL:</b>			\$0	\$13,670,000	\$10,020,000	\$23,690,000

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.



# ATTACHMENT - B

**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 Nelson Avenue/Cherokee Road	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	Montgomery Street	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	\$5,568,889	\$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	Improve to Major 2-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>



# ATTACHMENT - C

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>





# City of Oroville

Donald Rust  
DIRECTOR

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
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### PLANNING COMMISSION STAFF REPORT

February 22, 2018

**Smart & Final: Finding of Public Convenience or Necessity (Type 21)** – The Oroville Planning Commission will review and consider 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 355 Oro Dam Boulevard (APN: 035-030-080), the future location to a new Smart & Final.

**APPLICANTS:** Smart & Final #808  
600 Citadel Drive  
Commerce, CA 90040  
(323) 869-7699

**LOCATION:** 355 Oro Dam Boulevard  
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:** General Rule Exemption; Title 14, CCR, §15061(b)(3)

**REPORT PREPARED BY:**

**REVIEWED BY:**

Luis A. Topete, Associate Planner  
Community Development Department

Donald Rust, Director  
Community Development Department

### RECOMMENDED ACTIONS:

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

**ADOPT** Resolution No. P2018-02: 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 355 ORO DAM BOULEVARD, OROVILLE, CA 95965 (APN: 035-030-080) (**Attachment H**).

## SUMMARY

The Oroville Planning Commission will review and consider 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 355 Oro Dam Boulevard (APN: 035-030-080), the future location to a new Smart & Final. A Type-21 license authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premise under a Type-21 license. The applicant has also applied for a Type-86 “Instructional Tasting License” alcoholic beverage license. A Type-86 is issued to the holder of and premises of a Type 20 or Type 21 licensee, and authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee. **(Attachment A)**.

The issuance of this Type-21 license would increase the “undue concentration” of off-sale licenses authorized in census tract 0030.02. A total of three off-sale licenses are authorized in the subject census tract **(Attachment B)** with 6 licenses issued and active as of January 5, 2018 **(Attachment C)**. As an undue concentration of licenses currently exists in the subject census tract, the Business and Professions Code Section 23958.4 requires a finding of public convenience “or” necessity in order for the California Department of Alcoholic Beverage Control (ABC) application to be approved. It is not legally necessary to demonstrate both a finding of convenience “and” necessity.

## ANALYSIS

Findings of Public Convenience or Necessity are a tool for local governments and communities that directly ties them into the state liquor licensing process. Current state law limits the issuance of new licenses in geographical regions (census tracts) defined as high crime areas or in areas of “undue concentration” of retail alcohol outlets. However, the law also states these restrictions can be sidestepped in specified circumstances when the Department of ABC or the local jurisdiction makes a determination that the license in question would serve the “public convenience or necessity” by demonstrating that the business operation will provide some kind of benefit to the surrounding community. The applicant’s reasoning that public convenience or necessity will be served is detailed in **Attachment D**.

“Undue concentration” (also referred to as “over concentration”) is defined, with respect to on-sale retail alcoholic beverage license applications, in the Business and Professions Code Section 23958.4 as a ratio of the number of licenses in a census tract compared to the average number of licenses in a county, as a whole. It does not mean that a particular census tract necessarily has too many licenses for the needs of convenience of residents in that tract. “Over concentration” also does not mean that the State, or anyone else, has previously looked at this census tract and determined that it has suffered any adverse effects from the actual number of licenses existing or that it will suffer any adverse effects if a new license is issued.

The California Department of ABC allows three off-sale licenses within this Census Tract (0028.00) where the subject property is located, with 6 licenses issued and active as of January 5, 2018. As a result, Census Tract 0028.00 is identified as having an undue concentration of off-sale licenses, as defined by Section 23958.4 of the Business and Professions Code. Sections 23958 and 23958.4 of the Business and Professions Code requires ABC to deny the application unless the City determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance of the license.

**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), 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. This request for a Finding of Public Convenience or Necessity is for the infill of an existing space with a new Smart & Final.

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."

**FISCAL IMPACT**

The total fees associated with this request are as follows:

<b>Item</b>	<b>Price</b>	<b>Tech Fee</b>	<b>Total</b>	<b>Paid</b>
Finding of Public Convenience or Necessity	\$158.73	\$9.52	\$168.25	Yes
Filing of Notice of Exemption Butte County Clerks Filing Fee	\$50.00	-	\$50.00	No

**ATTACHMENTS**

- A – ABC License Types
- B – Licenses Authorized
- C – Issued On-Sale Licenses
- D – Request for Finding of Public Convenience or Necessity
- E – Census Tracts Map
- F – License Query System Summary
- G – Notice of Exemption
- H – Resolution No. P2018-02



# ATTACHMENT - A

Department of Alcoholic Beverage Control

State of California

## COMMON ABC LICENSE TYPES AND THEIR BASIC PRIVILEGES

LICENSE TYPE	DESCRIPTION
01	<b>BEER MANUFACTURER - (Large Brewery)</b> Authorizes the sale of beer to any person holding a license authorizing the sale of beer, and to consumers for consumption on or off the manufacturer's licensed premises. Without any additional licenses, may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place on the manufacturer's licensed premises or at a bona fide eating place contiguous to the manufacturer's licensed premises. May conduct beer tastings under specified conditions (Section 23357.3). Minors are allowed on the premises.
02	<b>WINEGROWER - (Winery)</b> Authorizes the sale of wine and brandy to any person holding a license authorizing the sale of wine and brandy, and to consumers for consumption off the premises where sold. Authorizes the sale of all wines and brandies, regardless of source, to consumers for consumption on the premises in a bona fide eating place that is located on the licensed premises or on premises owned by the licensee that are contiguous to the licensed premises and operated by and for the licensee. May possess wine and brandy for use in the preparation of food and beverage to be consumed at the bona fide eating place. May conduct winetastings under prescribed conditions (Section 23356.1; Rule 53). Minors are allowed on the premises.
20	<b>OFF SALE BEER &amp; WINE - (Package Store)</b> Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.
21	<b>OFF SALE GENERAL - (Package Store)</b> Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.
23	<b>SMALL BEER MANUFACTURER - (Brew Pub or Micro-brewery)</b> Authorizes the same privileges and restrictions as a Type 01. A brewpub is typically a very small brewery with a restaurant. A micro-brewery is a small-scale brewery operation that typically is dedicated solely to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.
40	<b>ON SALE BEER - (Bar, Tavern)</b> Authorizes the sale of beer for consumption on or off the premises where sold. No wine or distilled spirits may be on the premises. Full meals are not required; however, sandwiches or snacks must be available. Minors are allowed on the premises.
41	<b>ON SALE BEER &amp; WINE – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
42	<b>ON SALE BEER &amp; WINE – PUBLIC PREMISES - (Bar, Tavern)</b> Authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
47	<b>ON SALE GENERAL – EATING PLACE - (Restaurant)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.
48	<b>ON SALE GENERAL – PUBLIC PREMISES - (Bar, Night Club)</b> Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.
49	<b>ON SALE GENERAL – SEASONAL -</b> Authorizes the same privileges and restrictions as provided for a Type 47 license except it is issued for a specific season. Inclusive dates of operation are listed on the license certificate.



LICENSE TYPE	DESCRIPTION
51	<b>CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. No off-sale privileges. Food service is not required. Minors are allowed on the premises.
52	<b>VETERAN'S CLUB</b> - Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guest only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
57	<b>SPECIAL ON SALE GENERAL</b> - Generally issued to certain organizations who cannot qualify for club licenses. Authorizes the sale of beer, wine and distilled spirits, to members and guests only, for consumption on the premises where sold. Authorizes the sale of beer and wine, to members and guests only, for consumption off the licensed premises. Food service is not required. Minors are allowed on the premises.
59	<b>ON SALE BEER AND WINE – SEASONAL</b> - Authorizes the same privileges as a Type 41. Issued for a specific season. Inclusive dates of operation are listed on the license certificate.
60	<b>ON SALE BEER – SEASONAL</b> - Authorizes the sale of beer only for consumption on or off the premises where sold. Issued for a specific season. Inclusive dates of operation are listed on the license certificate. Wine or distilled spirits may not be on the premises. Minors are allowed on the premises.
61	<b>ON SALE BEER – PUBLIC PREMISES</b> - (Bar, Tavern) Authorizes the sale of beer only for consumption on or off the licensed premises. Wine or distilled spirits may not be on the premises. Minors are not allowed to enter and remain (warning signs required). Food service is not required.
67	<b>BED AND BREAKFAST INN</b> - Authorizes the sale of wine purchased from a licensed winegrower or wine wholesaler only to registered guests of the establishment for consumption on the premises. No beer or distilled spirits may be on the premises. Wine shall not be given away to guests, but the price of the wine shall be included in the price of the overnight transient occupancy accommodation. Removal of wine from the grounds is not permitted. Minors are allowed on the premises.
70	<b>ON SALE GENERAL – RESTRICTIVE SERVICE</b> - Authorizes the sale or furnishing of beer, wine and distilled spirits for consumption on the premises to the establishment's overnight transient occupancy guests or their invitees. This license is normally issued to "suite-type" hotels and motels, which exercise the license privileges for guests' "complimentary" happy hour. Minors are allowed on the premises.
75	<b>ON SALE GENERAL – BREWPUB</b> - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on a bona fide eating place plus a limited amount of brewing of beer. Also authorizes the sale of beer and wine only for consumption off the premises where sold. Minors are allowed on the premises.
80	<b>BED AND BREAKFAST INN – GENERAL</b> - Authorizes the sale of beer, wine and distilled spirits purchased from a licensed wholesaler or winegrower only to registered guests of the establishment for consumption on the premises. Alcoholic beverages shall not be given away to guests, but the price of the alcoholic beverage shall be included in the price of the overnight transient occupancy accommodation. Removal of alcoholic beverages from the grounds is not permitted. Minors are allowed on the premises.
86	<b>INSTRUCTIONAL TASTING LICENSE</b> —Issued to the holder of and premises of a Type 20 or Type 21 licensee, authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.



## SPECIAL EVENTS

The Department also issues licenses and authorizations for the retail sale of beer, wine and distilled spirits on a temporary basis for special events. The most common are listed below. Other less common ones are found in Business and Professions Code Section 24045.2, et seq.

**SPECIAL DAILY BEER AND/OR WINE LICENSE** - (Form ABC-221) Authorizes the sale of beer and/or wine for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to non-profit organizations. (Rule 59, California Code of Regulations)

**DAILY ON SALE GENERAL LICENSE** - (Form ABC-221) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. No off-sale privileges. Minors are allowed on the premises. May be revoked summarily by the Department if, in the opinion of the Department and/or the local law enforcement agency, it is necessary to protect the safety, welfare, health, peace and morals of the people of the State. In some instances, the local ABC office may require the applicant to obtain prior written approval of the local law enforcement agency. Issued to political parties or affiliates supporting a candidate for public office or a ballot measure or charitable, civic, fraternal or religious organizations. (Section 24045.1 and Rule 59.5 California Code of Regulations)

**CATERING AUTHORIZATION** - (Form ABC-218) Authorizes Type 47, 48, 51, 52, 57, 75 and 78 licensees (and catering businesses that qualify under Section 24045.12) to sell beer, wine and distilled spirits for consumption at conventions, sporting events, trade exhibits, picnics, social gatherings, or similar events. Type 47, 48 and 57 licensees may cater alcoholic beverages at any ABC-approved location in the State. Type 51 and 52 licensees may only cater alcoholic beverages at their licensed premises. All licensees wishing to cater alcoholic beverages must obtain prior written authorization from the Department for each event. At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises and violation of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399 and Rule 60.5 California Code of Regulations)

**EVENT AUTHORIZATION** - (Form ABC-218) Authorizes Type 41, 42, 47, 48, 49, 57, 75 and 78 licensees to sell beer, wine and distilled spirits for consumption on property adjacent to the licensed premises and owned or under the control of the licensee. This property shall be secured and controlled by the licensee and not visible to the general public. *The licensee shall obtain prior approval of the local law enforcement agency.* At all approved events, the licensee may exercise only those privileges authorized by the licensee's license and shall comply with all provisions of the ABC Act pertaining to the conduct of on-sale premises (including any license conditions) and violations of those provisions may be grounds for suspension or revocation of the licensee's license or permit, or both, as though the violation occurred on the licensed premises. (Section 23399)

**WINE SALES EVENT PERMIT** - (Form ABC-239) Authorizes Type 02 licensees to sell bottled wine produced by the winegrower for consumption off the premises where sold and only at fairs, festivals or cultural events sponsored by designated tax exempt organizations. The licensee must notify the city and/or county where the event is being held and obtain approval from ABC for each event (Form ABC-222). The licensee must also comply with all restrictions listed in Business and Professions Code Section 23399.6.

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### Note:

1. "Minor" means any person under 21 years of age.
2. Consult Section 25663(b) regarding age of employees in off-sale premises; consult Sections 25663(a) and 25663.5 regarding age of employees in on-sale premises.
3. In certain situations, ABC may place reasonable conditions upon a license, such as restrictions as to hours of sale, employment of designated persons, display of signs, restrictions on entertainment or dancing, etc. If a license has been conditioned, it will be endorsed as such on the face of the license. (Conditional licenses, Sections 23800-23805.)
4. Licensees whose license allows minors on the premises may have a "house policy" restricting minors from entering certain areas of the premises or prohibiting minors in the premises during certain hours.
5. This handout contains only abbreviated information. Contact your local ABC office for full information before doing anything which may jeopardize your license. Also available from the ABC: Quick Summary of Selected ABC Laws (form ABC-608); Alcoholic Beverage Control Act (complete laws); Rules & Regulations; and P-90 (describes privileges of non-retail licenses).



# ATTACHMENT - B

## DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL NUMBER OF LICENSES AUTHORIZED BY CENSUS TRACT

County Name	County Population	County Ratio On Sale	County Ratio Off Sale	Census Tract #	Census Tract Population	On Sale	Off Sale
BUTTE	226,404	670	1,083	24	5,157	7	4
BUTTE	226,404	670	1,083	25	4,930	7	4
BUTTE	226,404	670	1,083	26.01	2,324	3	2
BUTTE	226,404	670	1,083	26.02	3,455	5	3
BUTTE	226,404	670	1,083	27	5,478	8	5
BUTTE	226,404	670	1,083	28	4,275	6	3
BUTTE	226,404	670	1,083	29	3,060	4	2
BUTTE	226,404	670	1,083	30.01	3,140	4	2
BUTTE	226,404	670	1,083	30.02	3,531	5	3
BUTTE	226,404	670	1,083	31	4,396	6	4
BUTTE	226,404	670	1,083	32	4,234	6	3
BUTTE	226,404	670	1,083	33	4,852	7	4
BUTTE	226,404	670	1,083	34	2,956	4	2
BUTTE	226,404	670	1,083	35.01	3,222	4	2
BUTTE	226,404	670	1,083	35.02	4,758	7	4
BUTTE	226,404	670	1,083	36	3,404	5	3
BUTTE	226,404	670	1,083	37	4,505	6	4
CALAVERAS	45,168	414	869	1.2	4,434	10	5
CALAVERAS	45,168	414	869	1.21	4,463	10	5
CALAVERAS	45,168	414	869	1.22	4,046	9	4
CALAVERAS	45,168	414	869	2.1	9,515	22	10
CALAVERAS	45,168	414	869	2.2	5,515	13	6
CALAVERAS	45,168	414	869	3	6,969	16	8
CALAVERAS	45,168	414	869	4	4,032	9	4
CALAVERAS	45,168	414	869	5.01	3,332	8	3
CALAVERAS	45,168	414	869	5.03	2,330	5	2
CALAVERAS	45,168	414	869	5.04	942	2	1
COLUSA	22,043	525	648	1	5,183	9	7
COLUSA	22,043	525	648	2	5,121	9	7
COLUSA	22,043	525	648	3	6,055	11	9
COLUSA	22,043	525	648	4	2,495	4	3
COLUSA	22,043	525	648	5	2,565	4	3
CONTRA COSTA	1,139,513	914	1,759	3010	3,659	4	2
CONTRA COSTA	1,139,513	914	1,759	3020.05	6,592	7	3
CONTRA COSTA	1,139,513	914	1,759	3020.06	3,779	4	2
CONTRA COSTA	1,139,513	914	1,759	3020.07	6,347	6	3
CONTRA COSTA	1,139,513	914	1,759	3020.08	7,718	8	4
CONTRA COSTA	1,139,513	914	1,759	3020.09	5,641	6	3
CONTRA COSTA	1,139,513	914	1,759	3020.1	10,039	10	5
CONTRA COSTA	1,139,513	914	1,759	3031.02	7,624	8	4
CONTRA COSTA	1,139,513	914	1,759	3031.03	10,812	11	6
CONTRA COSTA	1,139,513	914	1,759	3032.01	9,989	10	5
CONTRA COSTA	1,139,513	914	1,759	3032.02	7,080	7	4
CONTRA COSTA	1,139,513	914	1,759	3032.03	8,491	9	4
CONTRA COSTA	1,139,513	914	1,759	3032.04	4,182	4	2



# ATTACHMENT - C



California Department of Alcoholic Beverage Control

Save As CSV

## Active Off-Sale Retail Licenses

For the Census Tract of 30.02

Report as of: 02/04/2018

Rows Per Page:

Total Licenses: 18

Page 1 of 1

Click on column header to sort

	<u>License Number</u>	<u>Status</u>	<u>License Type</u>	<u>Orig. Iss. Date</u>	<u>Expir. Date</u>	<u>Primary Owner</u>	<u>Business Name</u>	<u>Premises Addr.</u>	<u>Mailing Address</u>	<u>Geo Code</u>
1	<a href="#">31535</a>	ACTIVE	20	11/29/1978	05/31/2018	CHUN & COOK INC	R N MARKET	1043 BARDSLEY AVE TULARE, CA 93274  Census Tract: 0030.02	PO BOX 454 TULARE, CA 93275	5405
2	<a href="#">472678</a>	ACTIVE	21	11/19/2008	02/28/2018	DAKHIL CORPORATION THE	DAY & NIGHT MARKET	1401 WINYO AVE, # A TULARE, CA 93274-3401  Census Tract: 0030.02		5405
3	<a href="#">473231</a>	ACTIVE	20	12/19/2008	11/30/2018	MAGDALENO, RODOLFO ARIAS	MERCADO SOL DEL VALLE	537 & 541 W BARDSLEY AVE TULARE, CA 93274  Census Tract: 0030.02	549 WINYO TULARE, CA 93274	5405
4	<a href="#">516483</a>	SUREND	20	12/06/2011	11/30/2018	OBAID, FOUAD WAZI	CENTRAL MARKET	5401 CENTRAL AVE CERES, CA 95307  Census Tract: 0030.02	4229 PASSAGES LN MODESTO, CA 95356	5001
5	<a href="#">520798</a>	ACTIVE	20	06/06/2012	05/31/2018	KARA, SHIRAZ		4855 LINCOLN BLVD OROVILLE, CA 95966-6924  Census Tract: 0030.02		0400
6	<a href="#">541189</a>	ACTIVE	21	02/26/2014	01/31/2018	DAKHEIL, ADIB M	SUPER STOP FOOD MART	503 W BARDSLEY AVE TULARE, CA 93274-5105  Census Tract: 0030.02		5405
7	<a href="#">546945</a>	ACTIVE	20	08/26/2014	06/30/2018	7 ELEVEN INC	7 ELEVEN STORE 21324C	2125 MONTE VISTA AVE OROVILLE, CA 95966-6968  Census Tract: 0030.02	PO BOX 219088, ATT: 7 ELEVEN LICENSING DALLAS, TX 75221-9088	0400
8	<a href="#">547346</a>	ACTIVE	20	09/02/2014	08/31/2018	INAYA & ZAID LLC	NAZ FOOD MART	555 ORO DAM BLVD E OROVILLE, CA 95965-5716  Census Tract: 0030.02		0404
9	<a href="#">549307</a>	ACTIVE	21	01/16/2015	12/31/2018	AVA FAMILY CORPORATION	LIQUOR LOCKER	4216 CHRISTINE AVE KEYES, CA 95328  Census Tract: 0030.02	1578 E WHITMORE AVE, STE J & K CERES, CA 95307-7455	5000
10	<a href="#">556647</a>	ACTIVE	20	10/02/2015	09/30/2018	PRASAD, AVINESH ASHNIL	CENTRAL MARKET	5401 CENTRAL AVE CERES, CA 95307  Census Tract: 0030.02	1945 E CLEVELAND RD EL NIDO, CA 95317	5000
11	<a href="#">557224</a>	ACTIVE	20	07/27/2015	03/31/2018	DOLGEN CALIFORNIA LLC	DOLLAR GENERAL #15845	5521 7TH ST KEYES, CA 95328  Census Tract: 0030.02	100 MISSION RIDGE, ATTN: TAX - LICENSING GOODLETTSVILLE, TN 37072-2171	5000

12	<u>560267</u>	SUREND	20	10/12/2015	09/30/2018	CHIMA, GURMIT K	TOWER SUPER MARKET	5471 7TH ST KEYES, CA 95328  Census Tract: 0030.02	420 MASONIC CT VALLEJO, CA 94591	5000
13	<u>561848</u>	ACTIVE	20	12/01/2015	11/30/2018	ROYAL MINI MART INC	ROYAL MINI MART	2970 FEATHER RIVER BLVD OROVILLE, CA 95965  Census Tract: 0030.02		0404
14	<u>573799</u>	ACTIVE	21	05/26/2017	06/30/2018	WAL MART STORES INC	WAL MART STORE #1575	465 CAL OAK RD OROVILLE, CA 95965  Census Tract: 0030.02	702 SW 8TH ST, DEPT 8916 ATTN: TIM FARRAR BENTONVILLE, AR 72716-0500	0404
15	<u>577060</u>	ACTIVE	21	03/30/2017	02/28/2018	KOONER, AMARJIT SINGH	ORO DAM LIQUOR	1055 ORO DAM BLVD E OROVILLE, CA 95965-5833  Census Tract: 0030.02	671 MONTGOMERY ST OROVILLE, CA 95965	0400
16	<u>578568</u>	ACTIVE	21	07/19/2017	06/30/2018	QUICK TRIP LIQUOR INC	QUICK TRIP LIQUOR	1370 BARDSLEY AVE TULARE, CA 93274- 5882  Census Tract: 0030.02		5405
17	<u>587522</u>	ACTIVE	20	11/17/2017	10/31/2018	AMA FOODS, INC.	STATE FOODS SUPERMARKET	5471 7TH ST KEYES, CA 95328  Census Tract: 0030.02	PO BOX 306 KEYES, CA 95328	5000
18	<u>588237</u>	ACTIVE	20	01/02/2018	12/31/2018	SINGH, SUKHBIR	HIDALGUENSE LITTLE MARKET	5579 7TH ST KEYES, CA 95328  Census Tract: 0030.02	PO BOX 130 KEYES, CA 95328	5000

# ATTACHMENT - D

# Smart & Final<sup>®</sup>

Smart & Final Stores, LLC  
600 Citadel Drive, Commerce, CA 90040

---

**Dee Ann Catlin**  
Senior Legal Analyst  
(323) 869-7699  
[dee.catlin@smartandfinal.com](mailto:dee.catlin@smartandfinal.com)

January 10, 2018

## LETTER OF PUBLIC CONVENIENCE OR NECESSITY

Applicant(s): Smart & Final Stores LLC  
Premises Address: 355 Oro Dam Blvd., Oroville, California 95965

Before the State of California, Department of Alcoholic Beverage Control:

Under the Section 23958 of the California ABC Act, three on-sale licenses are allowed within this census tract. There are currently six active, on-sale licenses. Under section 23958.4(a)(2) of the ABC Act, the applicant premise is located in an area of "undue-concentration". Under section 23958.4(b)(1), the Department may issue a license "if the applicant shows that public convenience or necessity would be served by the issuance."

Pursuant to applicable law, the applicant hereby demonstrates that public convenience or necessity will be served by the issuance of the applied-for license as follows:

Under local zoning ordinances, the subject premise is designated "Intensive Commercial Land Use", with the corresponding zone of C-2, and is located within the "Airport Influence Area Overlay District" (AIA-O). The city of Oroville has established this area as a commercial retail district which encourages the concentration of shopping centers, and by extension, the number of licensed establishments in this census tract. Therefore, although the census tract is numerically over-concentrated, the project will not adversely affect community welfare because the local community has determined that the licensing of a grocery store is an expected and desirable use in an area designated for such.

The applicant's operation is unique from other licensed stores in this census tract in both its offerings and merchandise. Smart & Final's customers include institutional or food service related businesses. For example, many of our customers are caterers, lunch wagons, charitable organizations, etc. In addition, our customers also represent traditional "retail" customers. The typical customer at a Smart & Final store is one who is desirous of purchasing supplies in quantity at quantity prices but does not desire or is unable to patronize typical wholesale suppliers who do not provide the cash and carry convenience. Membership is not required at our stores. In addition, with our new "Extra" concept, we also provide a large selection of fresh produce as well as a meat case and smaller family size grocery and janitorial items for the traditional "retail" customer. Smart & Final does not encourage a retail walk-in trade for alcohol at any of our licensed locations. The likelihood of customers purchasing alcohol for immediate consumption, particularly on the premises, is very minimal. We believe that regardless of the concentration of other off-sale licenses in the area, our operation is unique and should not be considered as an addition to this concentration. Part of the

1/10/2018

convenience Smart & Final endeavors to provide its customers are the opportunity for one-stop shopping. For example, a group that wants to make purchases for a reception may come

to Smart & Final to purchase the decorations, food, paper supplies, clean up supplies, beverages and, if permitted, alcohol. With this complete product line, our customers do not need to drive from location to location making purchases. Historically, our customer counts do not increase as the result of a liquor license. Alcohol sales are incidental to our operation. Typically less than 5% of the total sales floor is devoted to alcohol.

Smart & Final takes pride in being a responsible retailer. The off-site sales of alcohol in conjunction with groceries and other items will not jeopardize, endanger or otherwise constitute a menace to public health, safety or general welfare or contribute to or aggravate existing police problems.

To ensure the safety of our customers we, in all our locations, take steps to provide adequate lighting, security and/or security systems where necessary, and vigilance to avoid problems which might arise in parking lots and surrounding areas. We too are very much concerned with the welfare of the community and will comply with all laws and rules associated with the sales of alcohol.

From the brief explanation above, we believe it is easy to see that Smart & Final is different from traditional retail grocery stores but can still provide the retail customer with the quality and service expected. One need only visit a Smart & Final store to see that we are not like a "Vons" or "Ralphs". And, with our unique niche in the marketplace we are also able to service the business customer who must operate a food service establishment with a consistent source of quality products in a convenient fashion. This, and the fact that we require no membership, also separates us from the warehouse club such as "Costco". The success of our business in the past 100 years and our current operation throughout the state would attest to the success of that niche marketing.

The operations of this facility will not contribute to or aggravate police problems in this area as follows:

- 1) The applicant agrees to abide by all applicable ABC rules and regulations concerning operation.
- 2) The subject premise is bounded on all sides by commercial development and is therefore well-buffered from nearby, residentially zoned, properties.
- 3) The premise is equipped with a video surveillance system, both inside and outside the premises that archives to a 16-channel recording DVR.
- 4) No amusement machines or video game devices shall be on the premises.
- 5) The owner shall be responsible for actively discouraging loitering within the premises.
- 6) The hours of operation shall be limited to the hours stated in form ABC-257.

The applicant has shown that public convenience or necessity would be served by the issuance of the requested license and respectfully requests issuance of a license pursuant to section 23958.4(b)(1) of the ABC Act.

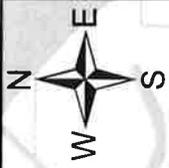
Please feel free to contact me at your convenience so we can discuss this matter.

Very truly yours,



Dee Ann Catlin  
Senior Legal Analyst

# ATTACHMENT - E



Map labels include street names and zip codes:

- Streets: BURMA RD, LAKELAND BLVD, LONG BAR RD, VALLEY VIEW DR, GLEN DR, SHARP RD, WARD BLVD, CANYON DR, BESSIE LN, OAKVALE AVE, HILLDALE AVE, GREENBANK AVE, SEACREST DR, V-E AVE, LOWER WYANDOTTE RD, AUTREY LN, STUMP DR, VIRGINIA AVE, OPHIR RD, WHEELER AVE, SELF LN, PINECREST RD, MAAND PA LN, NORTH RD, RABBIT RD, BEAVER RD, SUMMIT RD, KATE CT, RODMOR LN, CITRUS AVE, MAPLE AVE, UPPER PALERMO RD, CARMEL AVE, IRWIN AVE, MESSINA AVE, N VILLA AVE, LINCOLN BLVD, RAILROAD AVE, NORTH VILLA AVE, PRINCE RD, LONE TREE RD, DUTCH DR, SERENE LN, CAL OAK RD, S 5TH AVE, 7TH AVE, FEATHER RIVER BLVD, 003200, 003300, 003700, SPRIG LN, PINTO PL, PAR FOUR WAY, AFT, LARKIN RD, FARRAR LN, WILBUR RD, TRES VIAS RD, GRAND AVE, 20TH ST, 18TH ST, 16TH ST, 14TH ST, 12TH ST, 10TH ST, 7TH ST, 6TH ST, 5TH ST, 4TH ST, 2ND ST, 1ST ST, MYERS ST, LINCOLN ST, SAFORD ST, MITCHELL AVE, 1ST ST, 2ND ST, 3RD ST, 4TH ST, 5TH ST, 6TH ST, 7TH ST, 8TH ST, 9TH ST, 10TH ST, 11TH ST, 12TH ST, 13TH ST, 14TH ST, 15TH ST, 16TH ST, 17TH ST, 18TH ST, 19TH ST, 20TH ST, WYANDOTTE AVE, B ST, D ST, GREENVILLE ST, ITHACA ST, V-7 RD, V-6 RD, MONTE VISTA AVE, VIA CANELA, OROVILLE DAM BLVD E, GLENDALE AVE, ASHLEY AVE, OLIVE HWY, SPENCER AVE, FOOHILL BLVD, 002602, 002700, 002800, 003001, 003002, 003100, 003200, 003300, 003700, 002500, 002900, 003000, 003500, 003600, 003700, 003800, 003900, 004000, 004100, 004200, 004300, 004400, 004500, 004600, 004700, 004800, 004900, 005000, 005100, 005200, 005300, 005400, 005500, 005600, 005700, 005800, 005900, 006000, 006100, 006200, 006300, 006400, 006500, 006600, 006700, 006800, 006900, 007000, 007100, 007200, 007300, 007400, 007500, 007600, 007700, 007800, 007900, 008000, 008100, 008200, 008300, 008400, 008500, 008600, 008700, 008800, 008900, 009000, 009100, 009200, 009300, 009400, 009500, 009600, 009700, 009800, 009900, 010000.
- Highways: HWY 70, HWY 70EB.
- Other: BURMA RD, LAKELAND BLVD, LONG BAR RD, VALLEY VIEW DR, GLENDALE AVE, ASHLEY AVE, OLIVE HWY, SPENCER AVE, FOOHILL BLVD, 002602, 002700, 002800, 003001, 003002, 003100, 003200, 003300, 003700, 002500, 002900, 003000, 003500, 003600, 003700, 003800, 003900, 004000, 004100, 004200, 004300, 004400, 004500, 004600, 004700, 004800, 004900, 005000, 005100, 005200, 005300, 005400, 005500, 005600, 005700, 005800, 005900, 006000, 006100, 006200, 006300, 006400, 006500, 006600, 006700, 006800, 006900, 007000, 007100, 007200, 007300, 007400, 007500, 007600, 007700, 007800, 007900, 008000, 008100, 008200, 008300, 008400, 008500, 008600, 008700, 008800, 008900, 009000, 009100, 009200, 009300, 009400, 009500, 009600, 009700, 009800, 009900, 010000.



# ATTACHMENT - F



**California Department of Alcoholic Beverage Control**  
**License Query System Summary as of 02/04/2018**

License Information	
License Number:	590319
Primary Owner:	SMART & FINAL STORES LLC
ABC Office of Application:	31 - REDDING

Business Name
SMART & FINAL STORE #808

Business Address	
355 ORO DAM BLVD	
OROVILLE, CA. 95965	
County: BUTTE	Census Tract: 0030.02

Licensee Information
<b>Licensee: SMART &amp; FINAL STORES LLC</b>
<b>Company Information</b>
OFFICER: HIRZ, DAVID GERARD (PRESIDENT)
OFFICER: HIRZ, DAVID GERARD (CHIEF EXECUTIVE OFFICER)
OFFICER: HIRZ, DAVID GERARD (MANAGER)
OFFICER: PHEGLEY, RICHARD NEAL (MANAGER)
OFFICER: PHEGLEY, RICHARD NEAL (CHIEF FINANCIAL OFFICER)
OFFICER: PHEGLEY, RICHARD NEAL (VICE PRESIDENT)
OFFICER: SMITH, LELAND PARISH (VICE PRESIDENT/SECRETARY)
OFFICER: SMITH, LELAND PARISH (MANAGER)
OFFICER: SMART & FINAL LLC (MEMBER)
OFFICER: BERNARDINI, ANTHONY V (VICE PRESIDENT)
OFFICER: LINK, RICHARD ALLEN (VICE PRESIDENT)
OFFICER: MULLINS, SUZANNE (VICE PRESIDENT)
OFFICER: WHYNOT, JEFFREY D (VICE PRESIDENT)
MEMBER: SMART & FINAL LLC

License Types
1) License Type: 86 - INSTRUCTIONAL TASTING LICENSE
License Type Status: PENDING
Status Date: 18-JAN-2018 Term: 12 Month(s)
Original Issue Date: Expiration Date:
Master: Y Duplicate: 0 Fee Code: P0
License Type was Transferred On: From: 21-332952
License Type was Transferred On: To:
2) License Type: 21 - OFF-SALE GENERAL
License Type Status: PENDING
Status Date: 18-JAN-2018 Term: 12 Month(s)
Original Issue Date: Expiration Date:
Master: Y Duplicate: 0 Fee Code: P0
License Type was Transferred On: From: 21-332952
License Type was Transferred On: To:

Operating Restrictions
... No Operating Restrictions found ...

Disciplinary Action
... No Active Disciplinary Action found ...

Disciplinary History
... No Disciplinary History found ...

Holds
Hold Date: 18-JAN-2018 Type: FORM 220

Escrows
Escrow: FEDERAL ESCROW INC, 23734 VALENCIA BLVD STE 100A VALENCIA, CALIFORNIA 91355

For a definition of codes, view our [glossary](#).



# ATTACHMENT - G



## 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: Smart & Final: Finding of Public Convenience or Necessity (Type 21)

Project Location – Specific: 355 Oro Dam Boulevard (APN: 035-030-080)

Project Location - City: City of Oroville

Project Location – County: Butte

Description of Nature, Purpose, and beneficiaries of project: The project applicant, Smart & Final, has applied for a Finding of Public Convenience or Necessity for a Type-21 "Off Sale General – Package Store" alcoholic beverage license for the property identified as 355 Oro Dam Boulevard (APN: 035-030-080). A Type-21 license authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premise under a Type-21 license. The applicant has also applied for a Type-86 "Instructional Tasting License" alcoholic beverage license. A Type-86 is issued to the holder of and premises of a Type 20 or Type 21 licensee, and authorizes the tasting of alcoholic beverages as authorized to be sold from the off-sale premises, on a limited basis. Requires physical separation from the off-sale premises while tasting is taking place and generally requires the participation of a specifically-authorized manufacturer or wholesaler licensee.

Name of Public Agency Approving Project: City of Oroville – Community Development Department

Name of Person or Agency Carrying Out Project: Smart & Final #808

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. This request for a Finding of Public Convenience or Necessity is for the infill of an existing space with a new Smart & Final.

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

# ATTACHMENT - H

## RESOLUTION NO. P2018-02

**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 355 ORO DAM BOULEVARD, OROVILLE, CA 95965 (APN: 035-030-080)**

**WHEREAS**, pursuant to applicable provisions of the Business and Professions Code of the State of California, the Department of Alcoholic Beverage Control is charged with the responsibility of reviewing applications and issuance of licenses for the sale and/or manufacture of alcoholic beverages in the State of California; and

**WHEREAS**, Section 23958 of the Business and Professions Code provides that the Department of Alcoholic Beverage Control shall deny an application for a license or for a transfer of a license if issuance of that license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses, except as provided in Section 23958.4 of said Business and Professions Code; and

**WHEREAS**, Section 23958.4 of the Business and Professions Code provides that, notwithstanding the limitations of Section 23958, the Department of Alcoholic Beverage Control may issue a license if the local governing body of the area in which the applicant premises are located determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance; and

**WHEREAS**, the applicant has petitioned the Department of Alcoholic Beverage Control for a Type-21 “Off Sale General – Package Store” and Type-86 “Instructional Tasting License” alcoholic beverage licenses for the property identified as 355 Oro Dam Boulevard (APN: 035-030-080), the future location of a new Smart & Final; and

**WHEREAS**, the subject business is located in Census Tract 0030.02 with a population such that the Department of Alcoholic Beverage Control authorizes up to three off-sale licenses before an undue concentration would exist, and there are currently 6 licenses issued and active; and

**WHEREAS**, the City of Oroville has prepared a Letter of Public Convenience or Necessity provided as EXHIBIT “A” attached hereto.

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

**SECTION 1.** The foregoing recitals are incorporated herein and made a part hereof.

**SECTION 2.** That the public convenience or necessity would be served by the issuance of a Type-21 "Off Sale General – Package Store" alcoholic beverage license for the property identified as 355 Oro Dam Boulevard (APN: 035-030-080), the future location of a new Smart & Final.

**SECTION 3.** The Planning Commission finds and has determined that the use and operation of the site as proposed will assist in the generation of additional sales tax revenues to the City, as well as, assist in the creation and maintenance of additional jobs and economic opportunities for the residents of the City.

**SECTION 4.** 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. This request for a Finding of Public Convenience or Necessity is for the infill of an existing space with a new Smart & Final.

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."

**SECTION 5.** The request for a Finding of Public Convenience or Necessity Determination is hereby approved.

**SECTION 6.** The Zoning Administrator is hereby authorized to sign and transmit Exhibit A to the Department of Alcoholic Beverage Control on behalf of the City.

\*\*\*\*\*

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 22<sup>nd</sup> of February, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

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

\_\_\_\_\_  
CARL DURLING, VICE CHAIRPERSON

**EXHIBIT**

*A – Letter of Public Convenience or Necessity*



# 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)

February 23, 2018

State of California  
Department of Alcoholic Beverage Control  
1900 Churn Creek Rd, Suite 215  
Redding, CA 96002

**RE: LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR A TYPE-21 "OFF SALE GENERAL – PACKAGE STORE" ALCOHOLIC BEVERAGE LICENSE FOR THE PROPERTY IDENTIFIED AS 355 ORO DAM BOULEVARD, OROVILLE, CA 95965 (APN: 035-030-080)**

To Whom It May Concern:

This letter shall serve to notify the California Department of Alcoholic Beverage Control that on February 22, 2018, the City of Oroville Planning Commission adopted a finding of public convenience or necessity and authorized the Zoning Administrator to sign this letter conveying the City's support for issuing an alcoholic beverage license (Type-21 "Off Sale General – Package Store") for the property located at 355 Oro Dam Boulevard (APN: 035-030-080), the future location of a new Smart & Final. The City of Oroville supports the efforts of community businesses to expand the local economy and finds no cause to oppose the requested license.

If there are any questions regarding the matters described in this letter, please contact Donald Rust, Director of Community Development, by phone at (530) 538-2433 or by e-mail at [drust@cityoforoville.org](mailto:drust@cityoforoville.org)

Sincerely,

Donald Rust, Director  
Community Development Department



# 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

February 22, 2018

**Feather River Crossing Sign Program** – The Oroville Planning Commission will review and consider a proposed sign program for the Feather River Crossing shopping center at 355 Oro Dam Boulevard E (APN: 035-030-080), and providing staff direction to return with an amendment to the existing sign program to allow for greater flexibility.

**APPLICANT:** Feather River 350 LLC  
101 E. Vineyard Ave, Ste 201  
Livermore, CA 94550

**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:

Staff is seeking guidance from the Planning Commission regarding the proposed sign program for the Feather River Crossing shopping center and direction for staff to return with an amendment to the existing sign program to allow for greater flexibility.

### SUMMARY

The Oroville Planning Commission will review and consider a proposed sign program for the Feather River Crossing shopping center at 355 Oro Dam Boulevard E (APN: 035-030-080), and providing staff direction to return with an amendment to the existing sign

program to allow for greater flexibility.

## BAKGROUND

At the December 14, 2017 Planning Commission meeting, the Commission reviewed and considered 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 shopping center. Following a discussion, the Commission directed staff to return with a proposal for a sign program.

## DISCUSSION

The repurposing of the previous Walmart location at 355 Oro Dam Boulevard E is underway. The shopping center 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. 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	6,002	Chipotle

\* 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:

<b>Major Tenants (Retail A-C, and Suite D)</b>		
Building Face	Roadway Frontage	Lineal Feet
East	Feather River Boulevard	262
North	Oro Dam Boulevard	386
West	State Route 70	262
Subtotal		910
<b>Pads 1 and 2</b>		
Building Face	Roadway Frontage	Lineal Feet
Pad 1 - East	Feather River Boulevard	120
Pad 2 - West	State Route 70	117
Pad 2 - North	State Route 70	32
Subtotal		269
<b>Total</b>		<b>1,179</b>

\*\* Maximum Total Sign Area: (1.5 x 1,179 = 1,769 square feet) or 450 square feet, whichever is less

The applicant is proposing the following signage:

Schedule	Type	Square Footage
A	WALL SIGN	180.36
B	WALL SIGN	103.43
C	WALL SIGN	103.43
D	WALL SIGN	17.71
E	WALL SIGN	33.18
F	WALL SIGN	504
G	WALL SIGN	115
H	WALL SIGN	109.8
I	WALL SIGN	295.16
J	WALL SIGN	130.47
K	WALL SIGN	130.47
L	WALL SIGN	60.15
M	WALL SIGN	35.59
P1	PYLON SIGN	499.16
M1	MONUMENT SIGN	167.72
M2	MONUMENT SIGN	34.38
Q	PLAQUE	8
R	UNDER CANOPY SIGN	7.22
S	WALL SIGN	30
T	WALL SIGN	30
U	WALL SIGN	30
V	WALL SIGN	30
W	WALL SIGN	30
X	WALL SIGN	30
<b>Total</b>		<b>2,715</b>

Proposed Signage vs Existing Sign Regulations

If the existing sign code were to be strictly enforced, no more than 450 square feet of total signage is allowed. Based off the scale and nature of the development, it's apparent that the sign code needs to be amended. The sign area being proposed is 2,265 square feet above the maximum total sign area currently permitted.

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 500 square feet per face. Per the current sign code, 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 500 square feet per face proposed.

Based off the proposed sign program, the following areas of the sign program exceed maximum allowances if the strict and literal enforcement of the sign code was applied:

- the maximum total sign area permitted
- the maximum area of a freestanding sign
- the maximum height of monument signs (height of monument signs proposed are allowed under current regulations, subject to the approval of a sign program)
- the maximum height of a freestanding sign

### Sign Program Regulations

The City's existing sign program regulations specify that "sign programs are specifically intended to address the unique needs of certain uses and properties that include multiple uses on a site, or multiple signs for uses with special sign needs. Sign programs shall be used to achieve aesthetic compatibility between the signs within a project and provide flexibility in the number, size, location and type of signs." Sign programs are intended specifically for the following uses:

- Multiple-tenant buildings.
- Uses with freeway-oriented signs.
- Automobile or other vehicle sales.
- All uses within a Planned Development (PD-O) Overlay District.

The modifications to standards currently allowed under the existing sign program regulations are limited. The total area of all signs in a sign program are allowed to exceed the maximum total sign area by 10%. Monument signs are allowed a height of up to 20 feet for establishments that are contiguous to Oroville Dam Boulevard, and 15 feet for all other establishments. Thus, the proposed monument signs would comply with the existing sign code if approved under a sign program.

In an effort to further promote the purpose of the sign code, staff is recommending that the current sign program regulations be amended to require that all sign programs be approved by the Planning Commission, and that there be a far greater flexibility as to not overburden businesses and still protect the public interest. In addition, staff recommends allowing maximum signage to be calculated as specified in the current sign code (1.5 square feet per linear foot of building frontage) without setting a predetermined maximum.

### **FISCAL IMPACT**

Applicant has paid the application fees of \$816.20 and technology cost recovery fee of \$48.98.

## **ATTACHMENTS**

A – Proposed Sign Program

B – Existing Sign Program Regulations



# Feather River Crossing

355 Oroville Dam Blvd. E., Oroville, CA 95965

ATTACHMENT - A

LATEST UPDATE:  
JANUARY 22, 2018

## SIGN CRITERIA

Drawing #27858RT

Prepared by



**National Sign & Marketing Corporation**



# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965

# Table of Contents

**APN:** 035-030-080

**Legal Description:** Real property in the City of Oroville, County of Butte, State of California described as follows:

**Recorded Book/Page:** In Book 121 of maps, at page 44

**Subdivision Name:** Feather River Crossing

**Lot/Parcel:** Parcel 1, as shown on that certain parcel map.

**Surrounding Zones:** Intensive Commercial (C-2) Airport Influence Area Overlay (AIA-O).

**Applicant:** Patrick Faranal  
c/o National Sign and Marketing  
13580 5th St.  
Chino, CA 91710  
Tel 909.591.4742 Fax 909.591.9792  
Lic# 745030 - Exp. 01/31/18

**Exhibit Prepare:** Sean Duffy / Patrick Faranal  
C/O National Sign and Marketing  
13580 5th St.  
Chino, CA 91710  
Tel 909.591.4742 Fax 909.591.9792  
Lic# 745030 - Exp. 01/31/18

**Land Owner:** Feather River 350, LLC  
101 E. Vineyard Ave.  
Ste #201  
Livermore, CA 94550

## PROJECT DIRECTORY

**Developer:** Sanjiv Chopra  
Tel: (209) 581-8445

**Signage Consultant:** National Sign & Marketing  
13580 Fifth Street  
Chino, CA 91710

**Contact:**  
Tel: (909) 591-4742  
Fax: (909) 591-9792

**City Planning:** City of Oroville  
Planning Division - Community Development Dept.  
Director: Donald Rust  
1735 Montgomery St.  
Oroville, CA 95965-4897  
Tel: (530) 530-2420  
Fax: (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

## TABLE OF CONTENTS

	PAGE
Table of Contents .....	1
Overview .....	2
Submittals & Approvals 1 .....	3
Submittals & Approvals 2 .....	4
Construction Requirements .....	5
All Companies Bidding to Manufacture .....	6
Sign Types .....	7
Miscellaneous Restrictions .....	8
Major Tenant A & B Wall Signs .....	9
Major Tenant B & C Wall Signs .....	10
Pad Tenant 1 & 2 Wall Signs .....	11
Window Vinyl Signage .....	12
Approved Signs .....	13
Site Map .....	14
Multi Tenant Pylon Sign .....	15
Multi Tenant Panel Monument Sign .....	16
Multi Tenant Panel Monument Sign .....	17
Major Tenant Elevations .....	18
Pad 1 & Pad 2 Elevations .....	19

### Overview

1. These guidelines are designed to complement architectural elements or themes expressed by the architecture of the buildings within the development. The resulting signage will, by placement, dimensions, and materials, create a common and attractive sign presence within the Feather River Crossing plan area. The purpose of the following criteria is to establish a coordinated sign program that gives each tenant adequate identification, while achieving a unified and attractive appearance among all lease spaces. In order to maintain the integrity of the criteria and balance among all occupants. Deviations from the criteria will not generally be approved.
  - a. To secure Landlord's approval, the Tenant agrees to conform to the following:
    - a. Provide three (3) copies of the detailed sign design. One to be in full color of the proposed sign(s), submitted to Landlord prior to submitting the designs to the City of Oroville.
    - b. The detailed sign design shall be submitted on sheets no larger than 11" x 17".
    - c. Submit copies to:  
Feather River 350, LLC  
101 E. Vineyard Ave., Ste# 201, Livermore, CA 94550  
Sanjiv Chopra & Sandie Martin
2. Prior to sign fabrication, the Tenant shall submit drawings of the proposed sign or signs to the City of Oroville per the city requirements. Upon approval, tenant shall provide a copy of the permitted plans to Landlord.
3. The Tenant or the Tenant's sign contractor shall secure a sign permit from the City of Oroville by submitting three (3) copies of fully dimensioned scaled drawings as follows:
  - a. A site plan showing the location of the occupant space on the site.
  - b. A detailed elevation of the Tenant's lease space drawn to scale and showing sign or signs placement and Tenant's space width, showing all colors, materials, dimensions and copy.
  - c. Fabrication and installation details, including structural and engineering data, U.L. electrical specifications.
  - d. Any other drawings, details and information as required by the City of Oroville.
4. All permits for signs and the installation thereof shall be obtained by the Tenant's sign contractor and paid for by the Tenant.
5. All signs and the installation thereof shall comply with all current local zoning, building, and electrical codes.
6. A copy of the signed off permit job card shall be provided to the landlord.

### Submittals and Approval (Part 1)

There is a formal process for the creation, review, and approval of the Tenant's signs at Feather River Crossing. All of the Tenant's signage is subject to the Landlord's or their managing agent's written approval. Approval will be granted based on the following:

1. Design, fabrication, and method of installation of all signs shall conform to this sign program.
2. Proposed signage is in harmony with adjacent signage conditions and conforms with the design standards for Feather River Crossing.

#### A. Submittal to Owner:

1. Tenant shall submit three (3) color copies of detailed shop drawings to Owner for approval prior to permit submittal or sign fabrication. Submit copies to: Feather River 350, LLC. Attn: Sandie Martin. Sign drawings are to be prepared by a California licensed sign contractor. All signs must conform to the requirements of the City of Oroville.

Submittals shall include the following:

1. Scaled elevation of Tenant's storefront depicting the proposed sign design and all dimensions as they relate to the Tenant's storefront.
2. Fully dimensioned and scaled shop drawings specifying exact dimensions, copy layout, type styles, materials, colors, means of attachment, illumination, electrical specifications, and all others details of construction. Section through letter and/or sign panel showing dimensioned projection of the face of the letter of the sign panel and the illumination.

If the shop drawings are denied, the Tenant must resubmit revised plans until Landlord's approval is obtained. Request to implement signs that vary from the provisions of this sign program shall be submitted to the Landlord's for approval, and then submitted to the City of Oroville for approval only if approved in writing by the Landlord. The Landlord may approve signs that depart from the specific provisions and constraints of this sign program in order to:

- a. Encourage exceptional design.
- b. Accommodate imaginative, unique and tasteful signs that capture the spirit and intent of this sign program.
- c. Mitigate problems in the application of this sign program.

#### B. Submittal to City:

1. The Tenant or their Sign Contractor must submit to the City of Oroville Planning and Building Department, and will be responsible for all necessary applications, due diligence, and permit fees as required in order to attain permits.
2. The Tenant and their Sign Contractor will not be permitted to commence installation of the exterior sign unless all of the following conditions have been met:
  - a. A copy of stamped or signed set of final drawings reflecting the Landlord's and the City of Oroville approval shall be on file in the Landlord's office.
  - b. All sign contractors must be fully insured and approved by the Landlord prior to installation. Landlord must receive the sign contractor's certificate of insurance naming the Landlord as additionally insured prior to commencement of any work. Coverage to be a minimum of three million dollars (\$3,000,000) general aggregate of insurance.
  - c. The Landlord must be notified 48 hours in advance prior to the installation of the signs.

### Submittals and Approval (Part 2)

C. Installation:

1. The Tenant's sign contractor shall install permitted signage within 90 days after approval of shop drawings from the Landlord. If the sign(s) are not in place by that date, The Landlord may order sign fabrication and installation on the Tenant's behalf and at the Tenant's expense.

D. The Tenant's Responsibility:

1. The Landlord may, at their sole discretion and at the Tenant's expense, correct, replace, or remove any sign that is installed without written approval and/or that is deemed unacceptable pertaining to this sign program
2. If the Tenant chooses to change their exterior sign at anytime during the term of their lease, the Tenant must comply with the requirements set forth herein for any future modifications, revisions, or changes which have been made to sign program for this center after the execution of their lease agreement.
3. The Tenant shall be ultimately responsible for the fulfillment of all requirements and specifications, include those of the Landlord, City, UL, and the Uniform Electrical Code.
4. Tenant shall be responsible for all expenses relating to any signage for their store, including but not limited to:
  - a. Design consultant fees (if applicable)
  - b. 100% of the permit processing cost and application fees.
  - c. 100% of the costs for sign fabrication and installation including review of shop drawings and patterns.
  - d. All costs relating to sign removal, including repair of any damage to the building.

### Construction Requirements

1. All signs and their installation shall comply with all local building and electrical codes.
2. All electrical signs will be fabricated by a U.L. approved sign company in accordance with U.L. specifications and bear the U.L. label.
3. The sign contractor is to be fully licensed with the City of Oroville and California State and shall have full Workman's Compensation and General Liability insurance.
4. All penetrations of the building exterior surfaces are to be sealed and waterproofed in a color and finish to match existing exterior.
5. Internal illumination to be L.E.D. installed and labeled in accordance with the "National Electrical Code".
6. All painted surfaces are to have glossy or satin finish. Only paint containing acrylic or polyurethane products may be used.
7. All Logo and letter heights shall be specified and shall be determined by measuring the normal capital letter of a type font.
8. All sign fabrication shall be of excellent quality. All logo images and type-styles shall be accurately reproduced. Lettering that approximates type styles will not be acceptable. The Landlord reserves the right to reject any fabrication work deemed to be below standards.
9. All lighting must match the exact specifications of the Landlord approved working drawings. No exposed conduit or raceways will be allowed.
10. All signs must be made of a durable rust-inhibiting material that is appropriate and complimentary to the building.
11. Color coating shall match the colors specified on the approved plans exactly.
12. Joining materials (e.g., seams) shall be finished in a way as to be unnoticeable to the public eye. Visible welds shall be continuous and ground smooth. Rivets, screws, and other fasteners that extend to visible surfaces shall be flush, filled, and finished so as to be unnoticeable.
13. Finished surfaces of metal shall be free from oil canning or warping. All sign finishes shall be free from dust, orange peeling, drips, and runs and shall have a uniform surface conforming to the highest standards of the industry.
14. In no case shall any manufacturer's label be visible from the street or from normal viewing angles.
15. Exposed junction boxes, lamps, tubing, or neon crossovers of any type are not permitted.
16. All exposed raceways, conduits, or wireways that are installed on rock background, corrugated metal and/or back of parapets to be painted a specific color to be approved by the architect or Landlord.
17. Premises identification signs (address numerals) are subject to the approval of the City Engineering and Fire Department.

# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965

## All Companies Bidding to Manufacture

### All Companies Bidding to Manufacture

1. All companies bidding to manufacture and install any of the Tenant's signs are advised that no substitutes will be accepted by the Landlord whatsoever, unless so indicated in the specifications which are approved in writing by the Landlord. Signs that deviate from these criteria without such approval must be removed at the Tenant's expense.
2. The Tenant's sign fabrication and installation company shall carry Worker's Compensation and General Liability Insurance against all damage suffered to any and all persons and/or property while engaged in the construction or erection of signs in the amount of three million dollars (\$3,000,000) general aggregate of insurance.
3. The Tenant's sign contractor shall completely erect and connect (including all wiring) the Tenant's sign in accordance with these criteria and all local zoning, building and electrical codes.

### Sign Types

Creative and imaginative signage is strongly encouraged and will be subject for Landlords review and approval of all sign design submittals. There are many acceptable sign treatments, however, a mixed media three-dimensional approach combining several different fabrication and lighting techniques is preferred. Tenants are strongly encouraged to consider the specific architectural style of their facade, the overall concept of the project, the scale of the proposed sign, and the critical viewing angles and sight lines when designing appropriate graphics and signs for the storefront. Note that specific locations and surrounding architectural treatments can limit the maximum sign height and length, which may differ from the general guidelines proposed in this document. The Landlord reserves the right to approve or reject any proposed sign on the basis of its size and placement.

Acceptable sign styles may include:

1. 5" deep face and halo illuminated channel letters.
2. 3" deep halo illuminated letters.
3. 4" deep face illuminated channel letters.
4. Mixed media 3 dimensional signs using images, icons, logos, etc.
5. Sand blasted, textured and/or burnished metal-leaf faced dimensional letters, pin mounted from facade.
6. Signs mounted to hard canopies, eyebrows, or other projecting architectural elements.
7. Screens, grids, or mesh; Etched, polished, patina or abraded materials.

For Example:

- a. Prismatic face letter forms with full facet strokes.
- b. Rounded face letter forms with radius faces and eased edges.
- c. Layered letter forms with face and liner. Letter face must be at least one (1) inch thick and the liner must be a minimum of 1/2" inch thick.

Notes:

Mixed media signs are signs employing two or more illumination and fabrication methods (for example, halo lit reverse channel letters with exposed neon accents). Although simple rectangular cabinet signs are generally not allowed, mixed media signs may be composed of several elements, one of which may be a cabinet. Sculpted, contoured or rectangular cabinets are strongly encouraged. However, the cabinet sign should not exceed 50% of the total sign area. With the Landlord's approval, complex shaped (i.e. polyhedron) sign cabinets may be used alone if they incorporate dimensional elements such as push-thru letters and/or exposed neon.

### **Miscellaneous Restrictions**

1. Hours of Business and Telephone Numbers: Limited to no more than three (3) square feet or less than 10% of window area, whichever is less, for each business frontage with a customer entrance.
2. Animated, flashing or audible signs will not be permitted
3. Lettering painted directly on the building surface, including windows will not be permitted.
4. Projections above or below designated sign area will not be permitted.
5. Temporary signs shall be subject to Landlord review and approval and comply with city code requirements.
6. Sign cabinets (except logo elements) are not allowed.
7. Any item not addressed in this sign criteria shall be governed by the municipal, state or federal laws, and must be approved in writing by the Landlord.

## Major Tenant A & B Wall Signs

1. Approval Required:
  - a. All signs shall be attached to the building only at a location approved by the Landlord and the City of Oroville.
2. Primary Wall Sign:
  - a. The main business identification sign shall be located on the building fascia at the location shown on elevation pages.
3. Suite Address Number Sign:
  - a. The suite number or address of the lease space shall be centered above the door per fire department requirement with white vinyl film.
4. Sign type:
  - a. Tenants signs shall be composed of channel letters.
  - b. The aggregate sign area (all signs on one wall) shall not exceed paragraph #5 below.
  - c. Sandblasted or painted signs are not permitted.
5. Tenant Identification Signs:
  - a. The maximum sign area allowed for the Primary Wall Sign is one (1) square foot of signage for one square foot of lease space.
  - b. The maximum size for the Primary Wall Sign shall not exceed 400 square feet with a maximum height of twenty (20) feet. The Primary Wall sign can consist of channel letters, logos or icons. Product and/or services sign(s) (Pharmacy, Garden center, etc.) shall not exceed 36" in height. Secondary signs shall not exceed one (1) square foot for each lineal foot of building space.
  - c. Landlord shall reasonably approve location of Major Tenant signs which shall be in keeping with the architectural design of the building. Signs to be located only within the space and surface specifically provided for on the building.
6. Materials:
  - a. Face material shall be acrylic. Landlord must approve colors prior to sign permit submittal.
  - b. Letter returns shall be aluminum, painted to match building colors or Landlord approved colors.
  - c. Letter return depth shall not exceed 7" from the face of the building.
  - d. Trim cap size: 1" for letters and logo elements.
7. Lighting:
  - a. All signs shall be internal LED illuminated with no exposed lighting.
  - b. All signs shall be U.L. listed.

## Major Tenant C & D Wall Signs

1. Approval Required:
  - a. All signs shall be attached to the building only at a location approved by the Landlord and the City of Oroville
2. Primary Wall Sign:
  - a. The main business identification sign shall be located on the building fascia at the location shown on elevation pages.
3. Suite Address Number Sign:
  - a. The suite number or address of the lease space shall be centered above the door per fire department requirement with white vinyl film.
4. Sign type:
  - a. Tenants signs shall be composed of channel letters.
  - b. The aggregate sign area (all signs on one wall) shall not exceed paragraph #5 below.
  - c. Sandblasted or painted signs are not permitted.
5. Tenant Identification Signs:
  - a. The maximum sign area allowed for the Primary Wall Sign is one (1) square foot of signage for one square foot of lease space.
  - b. The maximum size for the Primary Wall Sign shall not exceed 400 square feet with a maximum height of twelve (12) feet. The Primary Wall sign can consist of channel letters, logos or icons. Product and/or services sign(s) (Pharmacy, Garden center, etc.) shall not exceed 36" in height. Secondary signs shall not exceed one (1) square foot for each lineal foot of building space.
  - c. Landlord shall reasonably approve location of Major Tenant signs which shall be in keeping with the architectural design of the building. Signs to be located only within the space and surface specifically provided for on the building.
6. Materials:
  - a. Face material shall be acrylic. Landlord must approve colors prior to sign permit submittal.
  - b. Letter returns shall be aluminum, painted to match building colors or Landlord approved colors.
  - c. Letter return depth shall not exceed 7" from the face of the building.
  - d. Trim cap size: 1" for letters and logo elements.
7. Lighting:
  - a. All signs shall be internal LED illuminated with no exposed lighting.
  - b. All signs shall be U.L. listed.

## Pad 1 & 2 Tenant Wall Signs

1. Approval Required:
  - a. All signs shall be attached to the building only at a location approved by the Landlord and the City of Oroville.
2. Main Building ID Sign:
  - a. The main business identification sign shall be located on the building fascia at a location approved by the Landlord and the City of Oroville.
3. Window Sign:
  - a. The business identification window sign shall be centered on the store front glass nearest the main pedestrian entrance. The sign shall not exceed three (3) square feet or less than 10% of the window area, whichever is less, and shall be composed of white vinyl Helvetica medium lettering. Copy shall consist of name of business, hours of operation and emergency phone numbers.
4. Suite Number Sign:
  - a. The suite number or address of the lease space shall be centered above the door 4" high with white vinyl film.
5. Sign type:
  - a. Tenants signs shall be composed of channel letters.
  - b. Sandblasted or painted signs are not permitted.
6. Tenant Identification Signs:
  - a. The maximum sign area allowed for the main identification sign is One (1) square foot for each lineal foot of lease frontage.
  - b. The maximum size for the main identification sign shall not exceed Pad 1: 30 square feet max/Pad 2: 50 square feet max with a maximum height of Pad 1: 24" Max (H)/Pad 2: 32" Max (H).
  - c. The main ID sign can consist of channel letters, logos or icons. Secondary signs shall not exceed 24 inches.
  - d. Tenants with elevations that faces a street or parking lot shall be permitted signage on that elevation with a total of two (2) signs. Signs shall not exceed one (1) square foot of signage per one (1) foot of lease frontage.
  - e. Landlord shall reasonably approve location of Tenant signs which shall be in keeping with the architectural design of the building. Signs are to be located only within the space and surface specifically provided for on the building.
  - f. Every business with a drive thru facility is permitted a maximum of one (1) menu/order board signs. The sign shall be adjacent to the drive thru aisle. The sign shall not be located as to impair the vision of the driver of a vehicle traveling either into, out of, or through the drive thru aisle. The area of each sign shall not exceed thirty-two (32) square feet. The height of the sign including the pole or base shall not exceed six (6) feet from grade to the top of the sign.
  - g. Exit and Enter signs shall be placed as needed to insure traffic flow and will not be included in the overall square footage allowed. A plot plan showing all signs must be approved by the Landlord and City of Oroville.
  - h. Maximum length shall not exceed 80 percent of any street or parking lot frontage.
7. Materials:
  - a. Sign Face shall be Acrylic. Landlord must approve colors prior to sign permit submittal.
  - b. Letter return material shall be aluminum, painted to match building colors or Landlord approved colors.
  - c. Letter return depth shall not exceed 7" from the face of the building.
  - d. Trim cap size shall be 1" for letters and logo elements.
8. Lighting:
  - a. All signs shall be internal LED illuminated with no exposed lighting.
  - b. All signs shall be U.L. listed.

355 Oroville Dam Blvd. E., Oroville, CA 95965

## Permanent window and door signage is limited to the following: Tenant Entry Information

Materials: Matte white vinyl letters on entry glass.

Copy: 8" overall height of suite letter or address numerals  
Tenant entry / Hours of operation information 12" x 12"  
Credit card and social media information

Sign Area: 3.0 square foot maximum sign area

Typeface: Caecilia 55 Roman, Caecilia 75 Bold or other Property Owner approved corporate standard for typeface

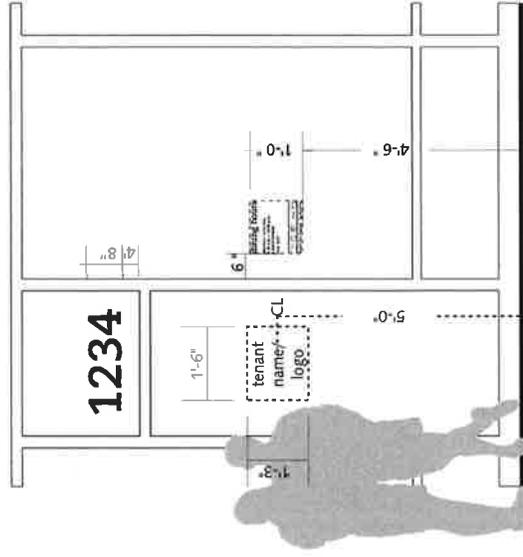
Location: Address or suite number centered over the main entry door(s).  
Tenant and/or hours of operation on entry glass panel on the same side as door handle or right side, as applicable.

Materials: Vinyl letters on door in contrasting color.

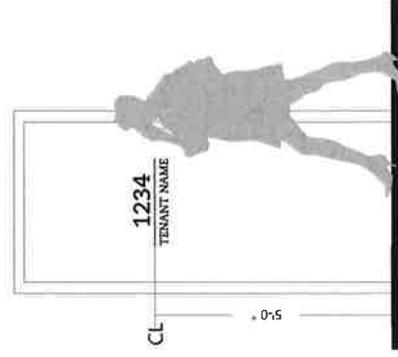
Copy: 4" overall height of suite letter or address numerals  
2" high Tenant Name

Sign Area: 2.5 square foot maximum sign area

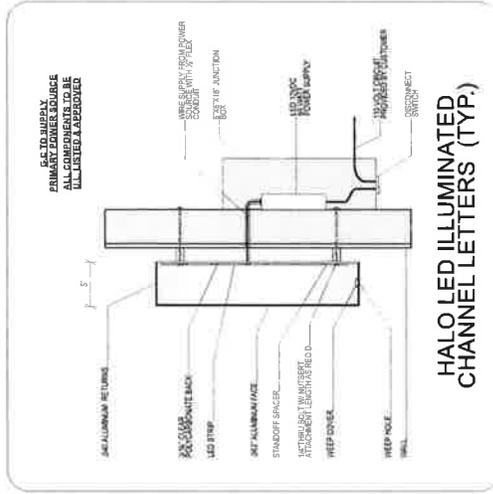
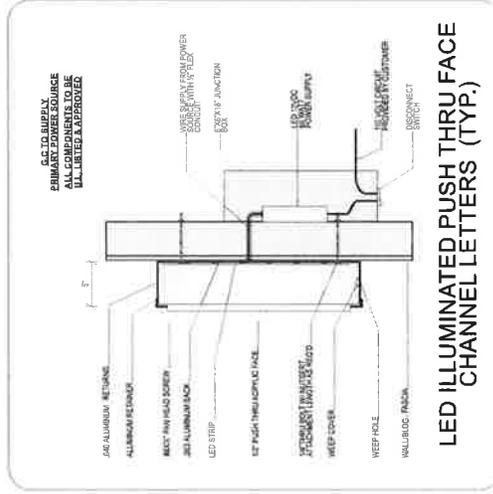
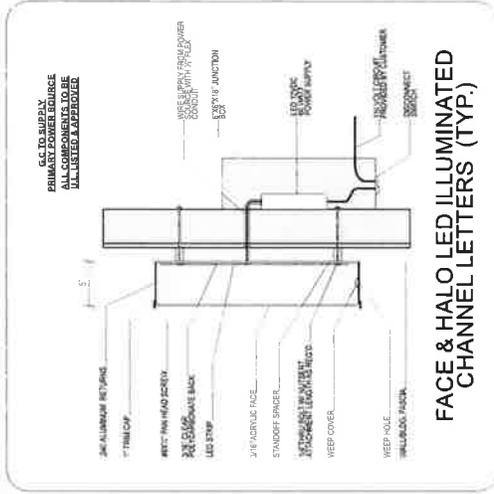
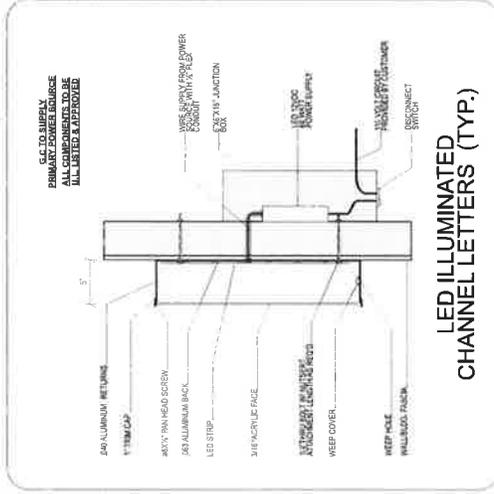
Typeface: Caecilia 55 Roman, Caecilia 75 Bold or other Property Owner approved corporate standard for typeface



Typical Elevation



Typical Elevation



Examples are provided for illustration purposes only. Other manufacturing methods may be allowed. All signage manufacturers shall provide project specific drawings with section views for approval by both landlord and the City of Oroville.

# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965  
**Scope of Work**

# Site Map

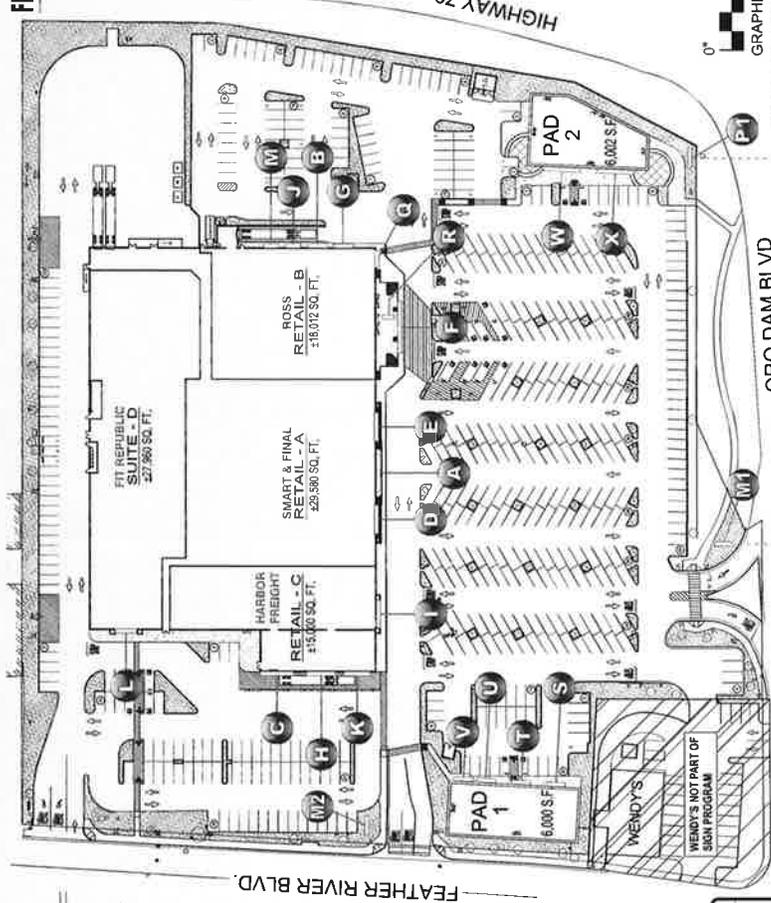
**FEATHER RIVER CROSSING, LLC**

## Project Summary

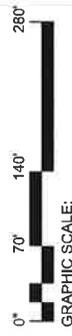
Land: 10.05ac 437,798 SF  
 Building Area: 102,871 SF  
 Land / Bldg.: 3.26 / 1 Ratio  
 Building %: 23.5%  
 Parking Prov'd: 502 Stalls  
 Parking Ratio: 4.88/1,000 SF

## Available

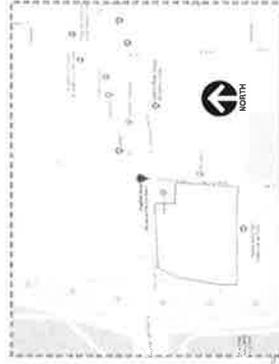
Retail A - 29,580 SF  
 Retail B - 18,012 SF  
 Retail C - 15,000 SF  
 Suite D - 27,960 SF  
 Pad 1 - 6,000 SF  
 Pad 2 - 6,002 SF



**PROPOSED PARCEL MAP**



GRAPHIC SCALE:



VICINITY MAP

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

SCHED.	TYPE	SQ. FOOTAGE
A	WALL SIGN	180.36 SQ. FT.
B	WALL SIGN	103.43 SQ. FT.
C	WALL SIGN	103.43 SQ. FT.
D	WALL SIGN	17.71 SQ. FT.
E	WALL SIGN	33.18 SQ. FT.
F	WALL SIGN	504 SQ. FT.
G	WALL SIGN	115 SQ. FT.
H	WALL SIGN	109.8 SQ. FT.
I	WALL SIGN	295.16 SQ. FT.
J	WALL SIGN	130.47 SQ. FT.
K	WALL SIGN	130.47 SQ. FT.
L	WALL SIGN	60.15 SQ. FT.
M	WALL SIGN	35.59 SQ. FT.
P1	PYLON SIGN	499.16 SQ. FT.
M1	MONUMENT SIGN	167.72 SQ. FT.
M2	MONUMENT SIGN	34.38 SQ. FT.
N	WALL SIGN	8 SQ. FT.
R	UNDER CANOPY SIGN	7.22 SQ. FT.
S	WALL SIGN	30 SQ. FT.
T	WALL SIGN	30 SQ. FT.
U	WALL SIGN	30 SQ. FT.
V	WALL SIGN	30 SQ. FT.
W	WALL SIGN	30 SQ. FT.
X	WALL SIGN	30 SQ. FT.

- A WALL SIGN
- B WALL SIGN
- C WALL SIGN
- D WALL SIGN
- E WALL SIGN
- F WALL SIGN
- G WALL SIGN
- H WALL SIGN
- I WALL SIGN
- J WALL SIGN
- K WALL SIGN
- L WALL SIGN
- M WALL SIGN
- M1 WALL SIGN
- M2 WALL SIGN
- N WALL SIGN
- P1 NEW D/F PYLON SIGN
- M1 NEW D/F MONUMENT SIGN
- M2 NEW D/F MONUMENT SIGN
- Q PLAQUE
- R UNDER CANOPY SIGN
- N WALL SIGN
- S WALL SIGN
- T WALL SIGN
- U WALL SIGN
- V WALL SIGN
- W WALL SIGN
- X WALL SIGN

**Feather River Crossing - Oroville, CA. - Site Map**

SCALE: 1" = 100'-0"

27858  
R1

S I G N C R I T E R I A

Page  
14

# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965

PI - PYLON TENANT PANEL SQ. FOOTAGE CHART	
SMART & FINAL	78.38 SQ. FT.
ROSS	78.38 SQ. FT.
HARBOR FREIGHT	78.38 SQ. FT.
FIT REPUBLIC	78.38 SQ. FT.
MATRESS FIRM	61.88 SQ. FT.
CHIPOTLE	61.88 SQ. FT.
TENANT 4	61.88 SQ. FT.
<b>TOTAL SQ. FOOTAGE</b>	<b>499.16 TOTAL SQ. FT.</b>

### Specifications:

**CABINET:** FABRICATED ALUMINUM CABINET WITH TO BE TEXTURED AND PAINTED BOUTIQUE BEIGE

**TOP & BOTTOM FRAME:** FABRICATED ALUMINUM WITH TO BE TEXTURED AND PAINTED AUTUMN BARK

**FACES:** TO BE 3/16" WHITE POLYCARBONATE FACES WITH 3M TRANSLUCENT VINYL OVERLAY APPLIED FIRST SURFACE

**RETAINERS:** 3" RETAINERS PAINTED AUTUMN BARK

**DIVIDER BAR:** 2" DIVIDER BAR PAINTED AUTUMN BARK

**POLE COVERS:** ALUMINUM POLE COVERS PAINTED WEATHER BOARD

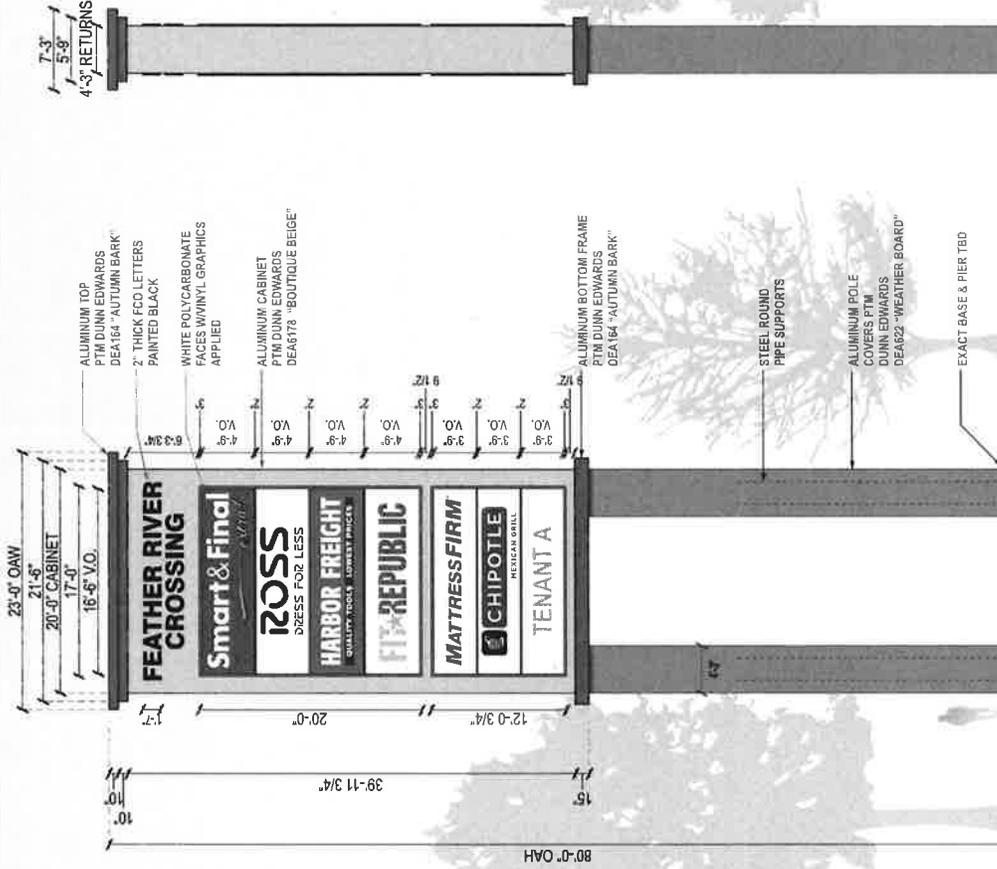
**ILLUMINATION:** LED

ALL WIRING & COMPONENTS TO MEET U.L. STANDARDS

- WHITE POLYCARBONATE
- DUNN EDWARDS DE5178 "BOUTIQUE BEIGE"
- DUNN EDWARDS DE-114 "AUTUMN BARK"
- DUNN EDWARDS DE5222 "WEATHER BOARD"



# Multi Tenant Pylon Sign



## NEW D/F ILLUMINATED PYLON SIGN

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

# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965

# Multi Tenant Monument Sign

M1 OPTION 1 - TENANT PANEL SQ. FOOTAGE CHART	
ROSS	30.20 SQ. FT.
SMART & FINAL	30.20 SQ. FT.
HARBOR FREIGHT	30.20 SQ. FT.
FIT REPUBLIC	30.20 SQ. FT.
MATTRESS FIRM	23.46 SQ. FT.
CHIPOTLE	23.46 SQ. FT.
<b>TOTAL SQ. FOOTAGE</b>	<b>167.72 TOTAL SQ. FT.</b>

**Specifications:**

**CABINET:** FABRICATED ALUMINUM CABINET WITH TO BE TEXTURED AND PAINTED BOUTIQUE BEIGE.

**TOP:** FABRICATED ALUMINUM WITH TO BE TEXTURED AND PAINTED AUTUMN BARK.

**FACES:** TO BE 3/16" WHITE POLYCARBONATE FACES WITH 3M TRANSLUCENT SIGN SEAL APPLIED FIRST SURFACE.

**RETAINERS:** 2" RETAINERS PAINTED AUTUMN BARK

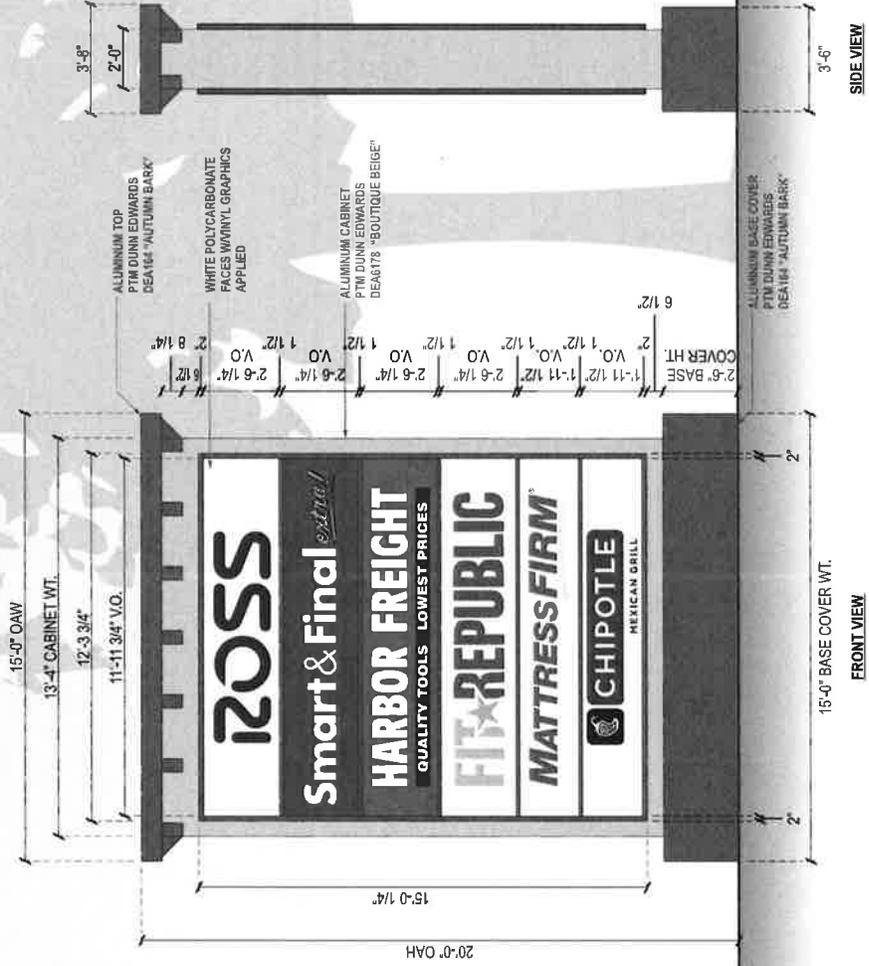
**DIVIDER BAR:** 1 1/2" DIVIDER BAR PAINTED AUTUMN BARK

**BASE COVERS:** ALUMINUM BASE PAINTED AUTUMN BARK

**ILLUMINATION:** LED

**ALL WIRING & COMPONENTS TO MEET U.L. STANDARDS**

WHITE POLYCARBONATE  
 DUNN EDWARDS DEAR164 "AUTUMN BARK"  
 DUNN EDWARDS DEAR178 "BOUTIQUE BEIGE"  
 DUNN EDWARDS DEAR158 "AUTUMN BARK"



**NEW D/F ILLUMINATED MONUMENT SIGN**

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

# Shopping Center

355 Oroville Dam Blvd. E., Oroville, CA 95965

# Multi Tenant Monument Sign

TENANT PANEL SQ. FOOTAGE CHART	
SMART & FINAL	6.28 SQ. FT.
ROSS	6.28 SQ. FT.
HARBOR FREIGHT	6.28 SQ. FT.
FIT REPUBLIC	6.28 SQ. FT.
MATRESS FIRM	4.63 SQ. FT.
CHIPOTLE	4.63 SQ. FT.
<b>TOTAL SQ. FOOTAGE</b>	<b>34.38 TOTAL SQ. FT.</b>

### Specifications:

**CABINET:** FABRICATED ALUMINUM CABINET WITH TO BE TEXTURED AND PAINTED BOUTIQUE BEIGE.

**TOP:** FABRICATED ALUMINUM WITH TO BE TEXTURED AND PAINTED AUTUMN BARK.

**FACES:** TO BE 3/16" WHITE POLYCARBONATE FACES WITH 3M TRANSLUCENT VINYL OVERLAY APPLIED FIRST SURFACE.

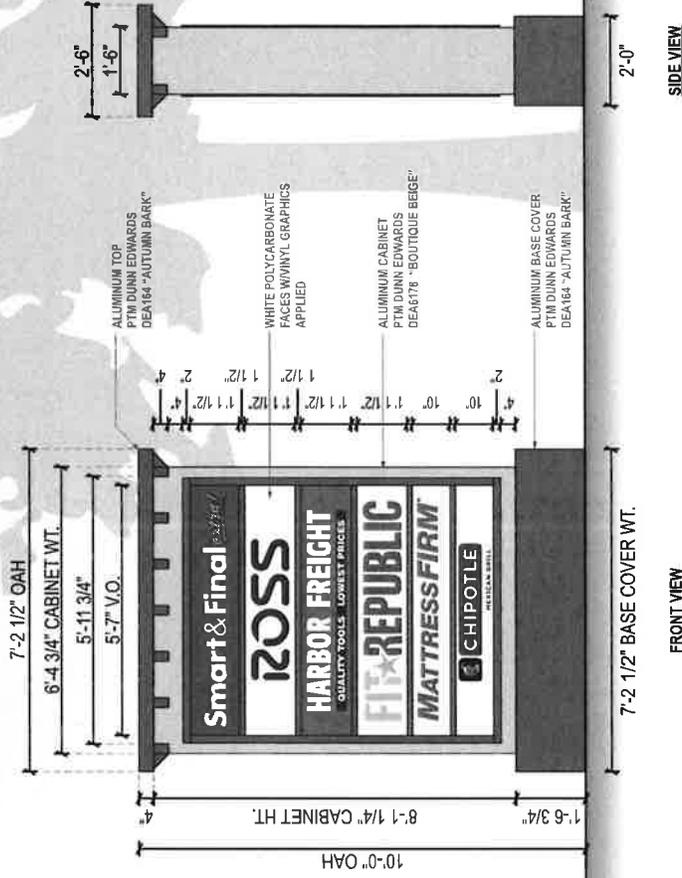
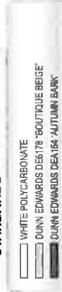
**RETAINERS:** 2" RETAINERS PAINTED AUTUMN BARK

**DIVIDER BAR:** 1 1/2" DIVIDER BAR PAINTED AUTUMN BARK

**BASE COVERS:** ALUMINUM BASE PAINTED AUTUMN BARK

**ILLUMINATION:** LED

**ALL WIRING & COMPONENTS TO MEET U.L. STANDARDS**



### NEW D/F ILLUMINATED MONUMENT SIGN

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

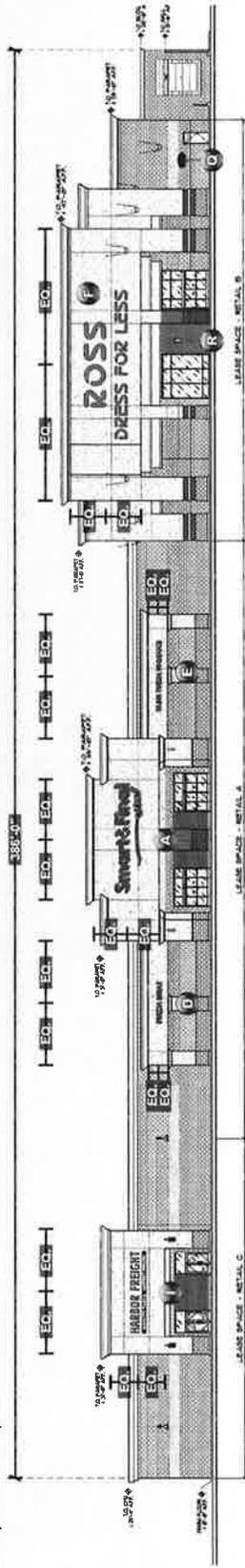
27858  
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S I G N C R I T E R I A

# Shopping Center

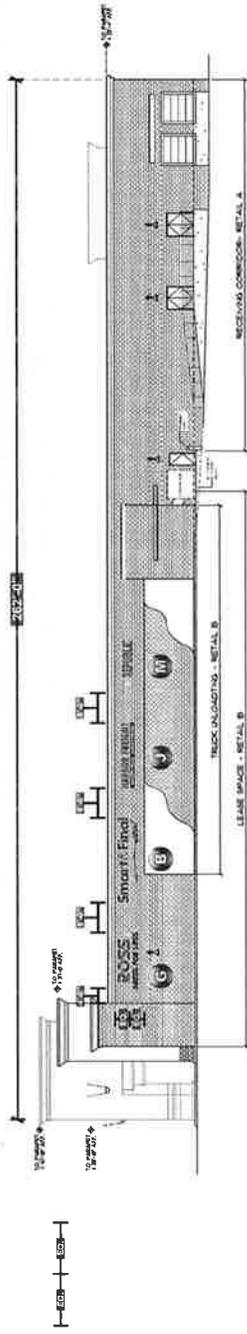
# Major Tenant Elevations

355 Oroville Dam Blvd. E., Oroville, CA 95965



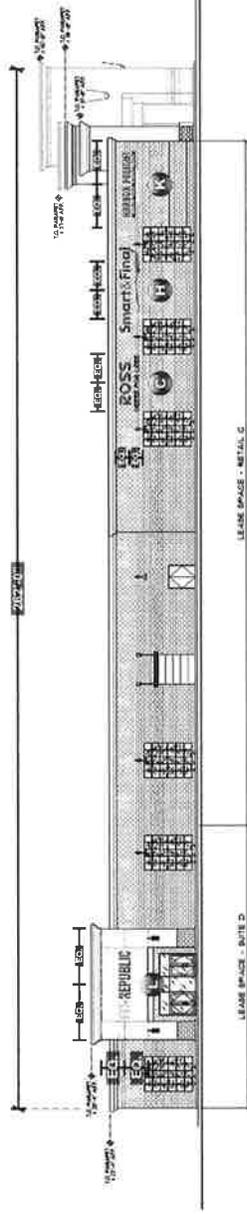
**NORTH ELEVATION**

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



**EAST ELEVATION**

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



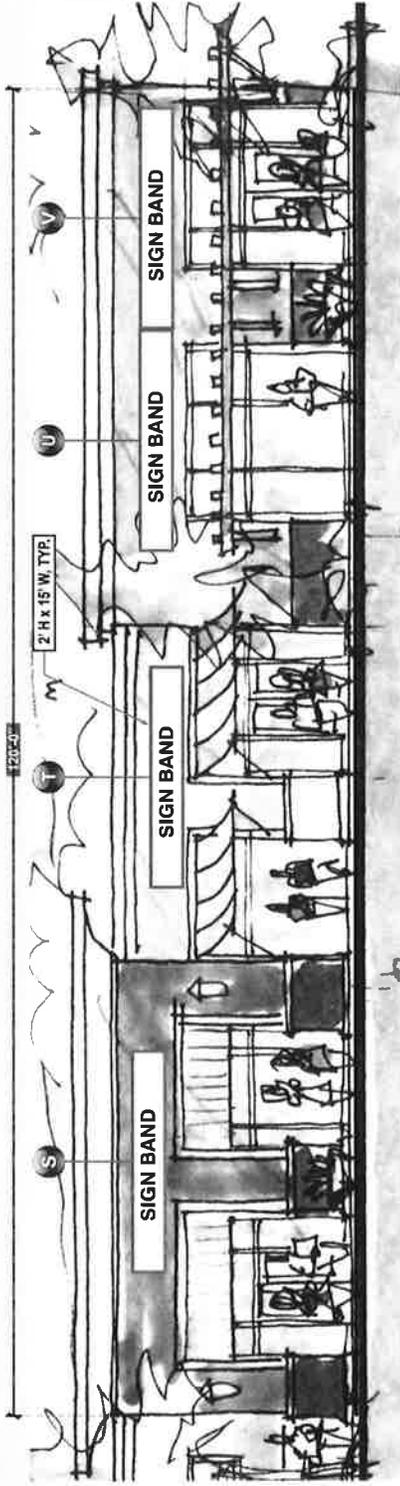
**WEST ELEVATION**

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

# Shopping Center

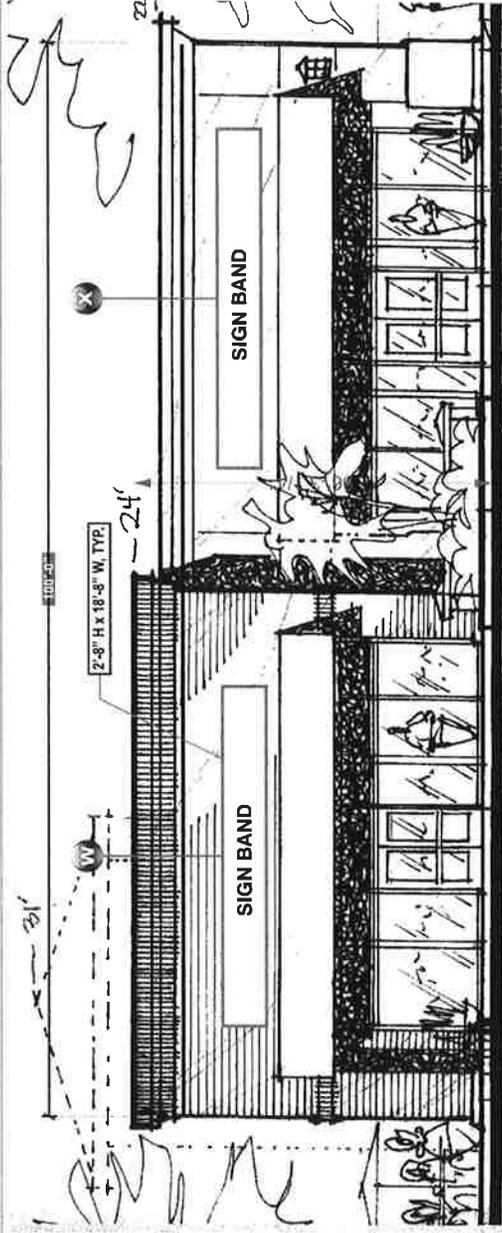
355 Oroville Dam Blvd. E., Oroville, CA 95965

## Pad 1 & Pad 2 Elevations



**PAD 1 SIGNAGE - EAST ELEVATION**

SCALE: NTS



**PAD 2 SIGNAGE - WEST ELEVATION**

SCALE: NTS

# ATTACHMENT - B

Oroville Municipal Code							
<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 17.20 SIGN REGULATIONS](#)

## **17.20.080 Sign programs.**

A. **Purpose.** Sign programs are specifically intended to address the unique needs of certain uses and properties that include multiple uses on a site, or multiple signs for uses with special sign needs. Sign programs shall be used to achieve aesthetic compatibility between the signs within a project and provide flexibility in the number, size, location and type of signs.

B. **Applicability.** Sign programs are permitted, and may be required as a condition of approval for a use permit, specifically for the following uses:

1. Multiple-tenant buildings.
2. Uses with freeway-oriented signs.
3. Automobile or other vehicle sales.
4. All uses within a Planned Development (PD-O) Overlay District.

C. **Modification of Standards.** A sign program may modify any of the following standards of this section:

1. The number of signs allowed.
2. The size allowed for an individual sign; provided, however, that the total area of all signs in the sign program shall not exceed the total area allowed by this section by more than 10%.
3. The maximum height of monument and freestanding signs that display information for multiple tenants; provided, however, as follows:
  - a. The height shall not exceed 20 feet for establishments that are contiguous to Oroville Dam Boulevard, and 15 feet for all other establishments.
  - b. The maximum height shall not be increased for signs in a residential district.
4. The location and type of signs allowed; provided, however, as follows:
  - a. A sign program shall allow no more than one sign that is not located on the same site as its associated use, in addition to any such signs that may be allowed by this section.
  - b. A sign program shall not include a prohibited sign.

D. **Design Requirements.**

1. Sign programs shall be designed so that all signs have visually compatible themes and placement.
2. Signs shall draw from a common palette of materials, colors, shapes, lettering types and sizes, and illumination methods. This common palette shall be compatible with the architecture and scale of the site's buildings, as well as the architecture and design of buildings and signs on other nearby properties.

E. **Review of Sign Programs.** All sign programs shall be subject to development review, in accordance with the requirements of Chapter 17.52 and the requirements of this section. The review authority for development review shall approve a sign program only upon determining that:

1. The signs included in the sign program have one or more common design elements, such as their placement, colors, materials, illumination, sign type, sign shape, letter size and lettering type.

2. The colors, materials, size and placement of the signs included in the sign program are compatible with the materials, architecture and scale of the buildings and signs on the site, and on other sites in the area.
3. The number and placement of signs included in the sign program is compatible with the number and placement of signs on other nearby properties.
4. The signs included in the sign program conform to the requirements of this section, as well as any applicable specific plan or design guidelines adopted by the city council. (Ord. 1749 § 4)

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View the [mobile version](#).