



OROVILLE CITY COUNCIL

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

January 07, 2020
REGULAR MEETING
CLOSED SESSION 4:30 PM
OPEN SESSION 5:00 PM
AGENDA

REQUESTS TO ADDRESS COUNCIL

If you would like to address the Council at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, **please submit the form prior to the conclusion of the staff presentation for that item.** Council has established time limitations of two (2) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. If more than 15 speaker cards are submitted for non-agenda items, the first 15 speakers will be randomly selected to speak at the beginning of the meeting, with the remaining speakers given an opportunity at the end. **(California Government Code §54954.3(b)).** Pursuant to Government Code Section 54954.2, the Council is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.

CALL TO ORDER / ROLL CALL

Council Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

CLOSED SESSION

The Council will hold a Closed Session on the following:

1. Pursuant to Government Code section 54956.9(d)(2), the Council will meet with the City Administrator and City Attorney regarding potential exposure to litigation – two cases.
2. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville Firefighters' Association, Oroville Police Officers Association (Sworn and Non-Sworn), Oroville Public Safety Mid-Managers Association, Oroville Management and Confidential Association, and Oroville City Employees Association.

OPEN SESSION

1. Announcement from Closed Session
2. Pledge of Allegiance
3. Adoption of Agenda

PRESENTATIONS AND PROCLAMATIONS

1. Presentation from AMG & Associates - Riverbend Family Apartments

PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS

This is the time to address the Council about any item not listed on the agenda. If you wish to address the Council on an item listed on the agenda, please follow the directions listed above.

CONSENT CALENDAR

Consent calendar **items 1 - 4** are adopted in one action by the Council. Items that are removed will be discussed and voted on immediately after adoption of consent calendar items.

1. **APPROVAL OF THE MINUTES**

The Council may approve the minutes of December 3, 2019 and December 17, 2019.

RECOMMENDATION

Approve the City Council Minutes of December 3, 2019 and December 17, 2019

2. **AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES GRANT APPLICATION**

The Council may consider the submittal of an Application for the Affordable Housing and Sustainable Communities "AHSC" Program.

RECOMMENDATION

Adopt Resolution No. 8827- A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES (AHSC) PROGRAM

3. **CONSIDER AND APPROVE A JOB DESCRIPTIONS FOR COLLECTION SYSTEM OPERATORS I, II AND LEAD FOR THE SEWER DIVISION**

The City Council will consider and adopt job descriptions for Collection System Operator I, II and Lead for the Sewer Division.

RECOMMENDATION

Approve the attached job descriptions for Collection System Operator I, II and Lead.

4. CONSIDER AND ADOPT THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEE'S ASSOCIATION AND AUTHORIZATION TO GRANT STEP H TO ONE EMPLOYEE

The City Council will consider and adopt the new amended and restated Memorandum of Understanding between the City of Oroville and the Oroville City Employee's Association (OCEA) and to authorize Step H for one employee.

RECOMMENDATION

Adopt Resolution No. 8829 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEE'S ASSOCIATION – (Agreement No. 1432-15).

Approve and authorize staff to move one employee to Step H of the current salary range.

REGULAR BUSINESS

5. FIRST READING OF A DRAFT ORDINANCE OF THE CITY OF OROVILLE AMENDING SECTIONS 17.04.060 AND 5.28.010 AND ADDING SECTIONS 5.28.095, 5.28.130 AND 5.28.140 OF THE OROVILLE MUNICIPAL CODE REGARDING PROHIBITING THE SALE OF FLAVORED TOBACCO

The Council will hold a public hearing to consider approving the first reading of an ordinance to prohibit the sale of flavored tobacco within the City limits. Input will be considered from the Planning Commission and the public on both sides of the issue.

RECOMMENDATION

Provide direction to staff on these options:

Approve first reading of ordinance as is, which prohibits the sale of all flavored tobacco products within the City limits;

Modify the ordinance to allow sale of flavored tobacco products at Oroville's five smoke shops only;

Adopt the Planning Commission's recommendation to take no action, but send a letter encouraging the State to prohibit flavored tobacco products statewide;

If adopting a ban, the Council may also consider whether to make the ban effective immediately or to wait a period of time to allow retailers to sell their existing inventory.

6. ADOPTION OF BUTTE COUNTY LOCAL HAZARD MITIGATION PLAN

The Council will consider adopting the Butte County Local Hazard Mitigation Plan.

RECOMMENDATION

Staff recommends the adoption of the Butte County Local Hazard Mitigation Plan

7. ADOPTION OF FORMAL MEETING SCHEDULE FOR 2020

The Council will consider the formal meeting schedule for 2020. The Council may adjust times of open session and closed session.

RECOMMENDATION

Provide Staff direction and **approve the City's formal meeting schedule for 2020**

REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Council Announcements and Reports
2. Future Agenda Items
3. Administration Reports
4. Correspondence

i. Letter from Comcast regarding price changes

ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville City Council will be held on January 21, 2020 at 5:30 p.m.

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

Recordings - All meetings are recorded and broadcast live on cityoforoville.org and YouTube.



JOINT MEETING OF Item 1.
OROVILLE CITY COUNCIL AND
***OROVILLE SUCCESSOR AGENCY**
Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

December 03, 2019
MINUTES

This meeting was recorded and can be viewed at cityoforoville.org. The agenda for this meeting was posted on November 27, 2019 at 1pm.

CALL TO ORDER / ROLL CALL

Mayor Reynolds called the meeting to order at 5:30pm.

PRESENT: Council/Committee Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

ABSENT: None

STAFF: City Administrator Bill LaGrone, Assistant City Administrator of Administration Ruth Wright, Project Manager Tom Lando, Assistant City Clerk Jackie Glover, City Attorney Sam Emerson, Community Development Director Leo DePaola, Public Safety Director Joe Deal, Treasurer Karolyn Fairbanks

CLOSED SESSION

The Council held a Closed Session on the following:

1. Pursuant to Government Code section 54956.9(d)(2), the Council will meet with the City Administrator and City Attorney regarding potential exposure to litigation – two cases.
2. Pursuant to Government Code Section 54957(b), the Council will meet with the City Administrator, Personnel Officer, and City Attorney to consider the employment related to the following position: Assistant City Administrator.
3. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville Firefighters' Association, Oroville Police Officers Association (Sworn and Non-Sworn), Oroville Public Safety Mid-Managers Association, Oroville Management and Confidential Association, and Oroville City Employees Association.

OPEN SESSION

The council reconvened at 5:59pm.

1. Announcement from Closed Session – Mayor Reynolds announced that no action was taken; direction was given.
2. Pledge of Allegiance – Led by Mayor Reynolds

3. Adoption of Agenda – Motion by Council Member Goodson and second by Council Member Smith to adopt the agenda.

Item 1.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

PUBLIC COMMUNICATION – HEARING OF NON-AGENDA ITEMS

The Following individuals spoke on non-agenda items:

- Beth Bello
- Bill Speer
- The Camera Man

The Following individuals spoke on agenda items:

- The Cameraman – Items 2, 7, 10
- Bill Speer – Item 10
- Bobby O'Reiley – Item 10

CONSENT CALENDAR

Motion by Council Member Pittman and second by Council Member Thomson to adopt the consent calendar. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

1. APPROVAL OF THE MINUTES

The City Council approved the minutes of the November 19, 2019 City Council Meeting.

2. FREE ADMISSION DAYS FOR ALL CITY MUSEUMS

Council authorized a free admission days for all City Museums on February 29, 2020 and March 1, 2020 in support of Explore Butte County

3. 2020 SEWER LINING PROJECT – DESIGN TASK ORDER

Mayor and council awarded a task order to Bennett Engineering Services to design and release for construction bid, a sewer lining rehabilitation project to improve problematic sewer pipelines and reduce infiltration to the sewer system.

4. ADOPTION OF ORDINANCE 1840 ADOPTING THE 2019 CALIFORNIA BUILDING STANDARDS CODE TITLE 24, PARTS 1-6 AND 8-12

The Council adopted Ordinance 1840 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE, ADOPTING BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA CODE OF REGULATIONS TITLE 24, KNOWN AS THE CALIFORNIA BUILDING STANDARDS CODE PARTS 1-6 AND 8-12 AND THE UNIFORM HOUSING CODE 1997 EDITION, AND THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS 1997 EDITION AND THE 2019 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDING CERTAIN PORTIONS OF THE CALIFORNIA CODE OF REGULATIONS TITLE 24

Item 1.

5. LETTER TO THE FEDERAL ENERGY REGULATORY COMMISSION REGARDING PROJECT NO. 2001 NEW LICENSE

The Council approved a revised letter to the Federal Energy Regulatory Commission (FERC) regarding Project No. 2100 – Request for Issuance of new license.

REGULAR BUSINESS

6. SUCCESSOR AGENCY PROPERTY SALE - 750 MONTGOMERY STREET*

The Successor Agency considered an option for the sale of a commercial property asset of the former Oroville Redevelopment Agency located at 750 Montgomery Street.

Motion by Council Member Goodson and second by Council Member Draper to adopt Successor Agency Resolution No. 19-01 - A RESOLUTION OF THE OROVILLE SUCCESSOR AGENCY OF THE FORMER OROVILLE REDEVELOPMENT AGENCY OF THE CITY OF OROVILLE AUTHORIZING AND DIRECTING THE CHAIRPERSON TO SIGN A RESOLUTION RECOMMENDING TO THE BUTTE COUNTY OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE CITY OF OROVILLE THAT THE PROPERTY LOCATED AT 750 MONTGOMERY STREET, OROVILLE BE SOLD TO BSJ ENTERPRISES, LLC FOR THE APPRAISED VALUE OF \$56,000 LESS THE CLEANUP, DEMO AND ESCROW COSTS; and direct staff to sign Successor Agency Agreement No. 19-01. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

7. CITY OF OROVILLE NEIGHBORHOOD TRAFFIC CALMING PROGRAM

The Council provided direction on accepting the proposed Neighborhood Traffic Calming Program (NTCP). Council provided direction on the potential purchase of speed enforcement/traffic counting trailers.

Motion by Council Member Draper and second by Council Member Goodson to approve moving forward with the implementation of the proposed Neighborhood Traffic Calming Program and to purchase two (2) TrafficLogix VMS30 signboard / trailers in an amount not to exceed \$15,000.00 each. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

8. OLD FERRY ROAD ACCESS AGREEMENT FOR CA DEPT. OF WATER RESOURCES (DWR)

City council approved and directed the mayor may sign a long-term access agreement between the City of Oroville and the California Department of Water Resources (DWR) to allow DWR crews to access their infrastructure adjacent to the Thermalito Diversion Dam.

Motion by Council Member Goodson and second by Council Member Draper to approve the agreement and direct staff to sign it. Motion passed.

AYES: Council Members Hatley, Smith, Pittman, Goodson, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSTAIN: None

ABSENT: None

9. LIMITING OR PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE

This item was pulled from the agenda. No action or discussion on this item.

10. RESOLUTION OF INTENT TO INITIATE PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR COUNCIL MEMBERS

The Council considered the adoption of Resolution No. 8823 to initiate procedures for establishing and implementing by-district elections for Council Members of the City of Oroville.

Motion by Council Member Smith and second by Council Member Draper to adopt Resolution No. 8823 – A Resolution of the Oroville City Council Expressing the Council's Intention, Pursuant to Elections Code Section 10010 to Initiate Procedures for Establishing and Implementing By-District Elections for Council Members. Motion passed.

AYES: Council Members Hatley, Smith, Goodson, Draper, Mayor Reynolds

NOES: Council Member Pittman

ABSTAIN: Vice Mayor Thomson

ABSENT: None

REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Council Announcements and Reports
 - a. Draper – Attended the Arts Commission Meeting on December 2nd.
 - b. Pittman – Attended the Oro Dam Citizens Advisory Committee meeting, interested in looking at resolutions and ordinances enacted by other cities to remove people from around riverbeds.
 - c. Smith – Explained an incident that happened at Smart and Final
 - d. Reynolds – Attended the Oro Dam Citizens Advisory Committee meeting, had a meeting to discuss issues along the river, Attended the Hmong New Year Dinner/Celebration, watched his son Graduate basic training in Chicago.
2. Future Agenda Items
 - a. Goodson – Laurens Law Presentation
3. Administration Reports

- a. Assistant City Administrator of Administration Ruth Wright– Announced that OpenGov is up to date on the city website and that she is willing to hold a work on how to use it. Item 1.
- b. Project Manager Tom Lando – Working on the Annexations
- c. City Administrator Bill LaGrone – 2019 Paving project is almost complete and a list is being compiled for 2020, Working to address issues with campers being along the river – looking at safety, environmental impact, digging, etc.
- d. Community Development Director Leo DePaola – Permits officially issued for Vista Del Oro, DR Horton is looking at Linkside Place 2 – a meeting is happening soon.
- e. Public Safety Director Joe Deal – Two new police officers starting next week.

4. Correspondence

- i. PG&E Rate Change Notice
- ii. FERC - 2018 Dam Safety Surveillance and Monitoring Report
- iii. Email in support of Flavored Tobacco Ban

ADJOURN THE MEETING

Mayor Reynolds adjourned the meeting at 7:32pm. A regular meeting of the Oroville City Council will be held on December 17, 2019 at 5:30 p.m.

Approved:

Attested:

Mayor Chuck Reynolds

Assistant City Clerk Jackie Glover



**December 17, 2019
MINUTES**

This meeting was recorded live and can be viewed at cityoforoville.org. The agenda for this meeting was posted on December 12, 2019 at 2pm.

CALL TO ORDER / ROLL CALL

Mayor Reynolds called the meeting to order at 5pm.

PRESENT: Council Members: David Pittman, Eric Smith, Linda Draper, Art Hatley, Janet Goodson, Vice Mayor Scott Thomson, Mayor Chuck Reynolds

ABSENT: None

STAFF: City Administrator Bill LaGrone, Assistant City Clerk Jackie Glover, Assistant City Administrator of Administration Ruth Wright, Project Manager Tom Lando, City Attorney Sam Emmerson, Principle Planner Wes Ervin, Assistant City Administrator of Public Safety Joe Deal, Management Analyst III Amy Bergstrand, Human Resource Manager Liz Ehrenstrom

CLOSED SESSION

The Council convened to Closed Session on the following:

1. Pursuant to Government Code section 54956.9(d)(2), the Council will meet with the City Administrator and City Attorney regarding potential exposure to litigation – two cases.
2. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville Firefighters' Association, Oroville Police Officers Association (Sworn and Non-Sworn), Oroville Public Safety Mid-Managers Association, Oroville Management and Confidential Association, and Oroville City Employees Association.

OPEN SESSION

Mayor Reynolds reconvened the meeting at 5:29pm.

1. Announcement from Closed Session – Mayor Reynolds announced – no action taken; direction given.
2. Pledge of Allegiance – Led By Mayor Reynolds
3. Adoption of Agenda – Motion by Council Member Goodson and second by Council Member Draper to adopt the agenda. Motion passed

AYES: Council Members Hatley, Pittman, Goodson, Smith, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSENT: None

ABSTAIN: None

Pastor Steve spoke on a non-agenda item at this time. There were no public speakers for agenda items.

CONSENT CALENDAR

Motion by Council Member Goodson and second by Council Member Thomson to adopt the consent calendar items 1-8. Motion passed.

AYES: Council Members Hatley, Pittman, Goodson, Smith, Draper, Vice Mayor Thomson, Mayor Reynolds
NOES: None
ABSENT: None
ABSTAIN: None

1. UNANTICIPATED REVENUE

Council received Information regarding unanticipated revenue into the 2019-20 budget.

2. 2019 CALHOME PROGRAM GRANT APPLICATION

The Council adopted Resolution No. 8824 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM; THE EXECUTION OF A STANDARD AGREEMENT IF SELECTED FOR SUCH FUNDING, AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE CALHOME PROGRAM.

3. HOUSING SUCCESSOR AGENCY ANNUAL REPORT

The Council will received the Housing Successor Agency Annual Report for fiscal year ending 2019.

4. APPROVE THE SELECTION OF MARK THOMAS AND COMPANY TO PROVIDE DESIGN AND PROJECT MANAGEMENT FOR THE STATE ROUTE 162 PEDESTRIAN/BICYCLE DISABLED MOBILITY AND SAFETY IMPROVEMENT PROJECT

The Council approved the selection of Mark Thomas and Co to provide design and project management services for the Grant funded State Route 162 Pedestrian/Bicycle Disabled Mobility and Safety Improvements Project.

5. PUBLIC SAFETY DIRECTOR EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JOE DEAL

The Council will consider an employment agreement between the City of Oroville and Joe Deal for the position of Public Safety Director for the City of Oroville and adopted Resolution No. 8825 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF OROVILLE AND JOE DEAL TO SERVE AS ASSISTANT CITY ADMINISTRATOR - PUBLIC SAFETY (PUBLIC SAFETY DIRECTOR) – (Agreement No. 3290).

6. INVESTMENT POLICY ADOPTION FOR 2020

Item 1.

The Council adopted Resolution No. 8826 - A RESOLUTION AUTHORIZING ADOPTION OF AN INVESTMENT POLICY FOR THE CITY OF OROVILLE FOR 2020.

7. ASSISTANT COMMUNITY DEVELOPMENT SERVICES DIRECTOR JOB DESCRIPTION AND SALARY SCHEDULE

The Council adopted a job description and salary schedule for Assistant Development Services Director; and authorized Staff to advertise for the new position and return to Council with a list of applicants for the Council to interview.

8. CONSIDER AND APPROVE A JOB DESCRIPTION FOR GIS INTERN AND AUTHORIZE HIRING FOR THE POSITION

The City Council approved the attached job descriptions for GIS Intern and authorize staff to hire for the position.

REGULAR BUSINESS

9. AUTHORIZATION TO AWARD CONTRACT FOR JANITORIAL SERVICE AT CITY HALL

The Council awarded a contract for Janitorial services for City Hall to Pro Line Cleaning Services Inc., in an amount not to exceed \$1625.00 per month or \$19,500 annually.

Motion by council member Goodson and second by Council Member Smith to authorize Staff to award the bid and sign a contract for janitorial services at City Hall, with Pro Line Cleaning Services Incorporated. Motion passed.

AYES: Council Members Hatley, Pittman, Goodson, Smith, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSENT: None

ABSTAIN: None

10. FINANCIAL ANALYSIS FOR FISCAL YEAR ENDED JUNE 30, 2019

The Council received annual unaudited financial information for the year ended June 30, 2019. Motion by council member Draper and second by Council Member Goodson to transfer the surplus as follows:

\$1,500,000 be added to the City's General Reserve to bring it to approximately 17%.

\$1,406,618 is the ending fund balance in the 1% District tax Fund.

\$1,000,000 additional payment to our CalPERS unfunded liability.

Motion passed.

AYES: Council Members Hatley, Pittman, Goodson, Smith, Draper, Vice Mayor Thomson, Mayor Reynolds

NOES: None

ABSENT: None

ABSTAIN: None

1. Council Announcements and Reports
 - a. Draper – Attended the December 7, 2019 NAACP Black and White Gala
 - b. Goodson – Attended the December 7, 2019 NAACP Black and White Gala and was a part of the committee, She shared the description of the vision and mission of the NAACP.
 - c. Smith – Attended the Parade of Lights – great event – 65 entries. Attended the Continuum of Care Meeting on the 16th – hopeful with what the county will bring to the table.
 - d. Pittman – Spoke about completing a property inventory and getting properties sold, spoke about creating an ordinance about loitering around ATM Machines.
 - e. Reynolds – Congratulated Chief Deal on his promotion and asked to be given regular updates on the POP team.
2. Future Agenda Items – Stated in council announcements and reports
3. Administration Reports
 - a. Principle Planner Wes Ervin – Planning Commission will be reviewing a use permit for a new Starbucks to be built where Ron's Drive-In is
 - b. Chief Deal – Thanked the council for the opportunity to serve in the new position.
4. Correspondence
 - i. Letters - FERC Correspondence
 - ii. Notice for PG&E's request to change rates
 - iii. Letters - Tobacco Ban

ADJOURN THE MEETING

Mayor Reynolds adjourned the meeting at 5:48pm. A regular meeting of the Oroville City Council will be held on January 7, 2019 at 5:30 p.m.

APPROVED:

ATTESTED:

Mayor Chuck Reynolds

Assistant City Clerk Jackie Glover



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

**FROM: AMY BERGSTRAND, MANAGEMENT ANALYST III
BUSINESS ASSISTANCE AND HOUSING DEVELOPMENT**

**RE: AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES GRANT
APPLICATION**

DATE: JANUARY 7, 2020

SUMMARY

The Council may consider the submittal of an Application for the Affordable Housing and Sustainable Communities “AHSC” Program.

DISCUSSION

The California Strategic Growth Council (SGC) and the Department of Housing and Community Development (HCD) issued a Notice of Funding Availability (NOFA) dated November 1, 2019, for the availability of approximately \$550 million in funding for the Affordable Housing and Sustainable Communities (AHSC) Program. The purpose of the AHSC Program is to reduce greenhouse gas (GHG) emissions through projects implementing land-use, housing, transportation, and agricultural land preservation practices to support infill and compact development and support related and coordinated public policy objectives. Funding for the AHSC Program is provided from the Greenhouse Gas Reduction Fund (GGRF), an account established to receive Cap-and-Trade auction proceeds.

The AHSC Program furthers the purposes of AB32 (Chapter 488, Statutes of 2006) and SB 375 (Chapters 728, Statutes of 2008). AHSC is part of the California Climate Investments, a statewide program funded through GGRF that puts billions of Cap-and-trade dollars to work using GHG emissions, strengthening the economy, and improving public health and the environment in particularly disadvantaged communities.

The AHSC Program funds will be used for loans or grants, or a combination thereof, to projects that will achieve GHG emission reductions to benefit all California communities, particularly through increasing accessibility to affordable housing and key destinations via low-carbon transportation, resulting in fewer vehicle miles traveled (VMT) through shortened or reduced trip length or mode shift from Single Occupancy Vehicle (SOV) use to transit, bicycling or walking.

AMG & Associates, LLC (AMG) is proposing to construct a 72-unit affordable housing development in the vacant area of Table Mountain Blvd. and Nelson Ave., at the round-about. The development will consist of a 72-unit complex that will be available to low, moderately-low

and extremely- low income families. AMG & Associates, LLC has retained the Community Development Resource Group (CDRG) to prepare the 2019 AHSC Application to fund the construction of the project. In order to be eligible for AHSC funding, the project must include improvements that will enhance and promote transit accessibility within the neighborhood by providing a variety of supporting infrastructure improvements focused on connecting residents and key neighborhood destinations. Such improvements include active transportation improvements that would encourage walking and biking, safe and accessible street improvements, enhancing the visibility of neighborhood pathways, and improving transit station and express bus stop areas.

Staff has been working with AMG and CDRG in preparing the AHSC Application that will be submitted by February 11, 2020. As part of the application, Staff is proposing to construct more than 2,000 linear feet of new sidewalks with curb and gutter and street lighting along **Table Mountain from Nelson Avenue to Montgomery St.** and more than one half of a mile of bike trail. In addition to sidewalks and bike trails, staff is also proposing the addition of a bus stop and bus pull out at Nelson at Table Mountain. Additionally, Butte County Agency of Governments (BCAG) which operates the B-Line bus system, will receive \$1 million for a new electric bus and to install power at Mitchell and 3rd to support the charging equipment for the new bus. A breakdown of the estimated project budget is listed below.

Activity	Approximate Budget
Affordable Housing Development-72 units	\$10,650,000.00
Sustainable Transit Infrastructure (STI) Bicycle and Pedestrian-City of Oroville	\$2,003,000.00
Sustainable Transit Infrastructure (STI)-BCAG (Route 24 improvements, bus purchase, charging infrastructure)	\$1,846,600.00
Transit Related Amenities (street trees, street lighting)	\$775,000.00
Transit Bus Passes (for residents at the new housing development)	\$53,376.00
Workforce Development Program	\$50,000.00
Total (approximately)	\$15,377,976.00

FISCAL IMPACT

There is no fiscal impact at this time. If awarded, the grant funding will be distributed directly to the Affordable Housing Developers, AMG & Associates. For sidewalk and bicycle improvements components to the application, the City and State would enter into a subsequent grant agreement that will come back to council to establish a budget.

RECOMMENDATION

Adopt Resolution No. 8827- A RESOLUTION OF THE OROVILLE CITY COUNCIL
AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR THE AFFORDABLE
HOUSING AND SUSTAINABLE COMMUNITIES (AHSC) PROGRAM

ATTACHMENTS

R- 8827

Site Plan – Provided under separate cover

**CITY OF OROVILLE
RESOLUTION NO. 8827**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA,
AUTHORIZING THE SUBMITTAL OF AN APPLICATION FOR THE AFFORDABLE
HOUSING AND SUSTAINABLE COMMUNITIES (AHSC) PROGRAM**

WHEREAS, The State of California, the Strategic Growth Council (SGC) and the Department of Housing and Community Development (Department) has issued a Notice of Funding Availability dated November 1, 2019 (NOFA), under the Affordable Housing and Sustainable Communities (AHSC) Program established under Division 44, Part 1 of the Public Resources Code commencing with Section 75200; and

WHEREAS, City of Oroville (Applicant) desires to apply for AHSC Program funds and submit the Application Package released by the Department for the AHSC Program; and

WHEREAS, the SGC is authorized to approve funding allocations for the AHSC Program, subject to the terms and conditions of this NOFA, Program Guidelines, Application Package, and Standard Agreement. The Department is authorized to administer the approved funding allocations of the AHSC Program.

NOW, THEREFORE, BE IT RESOLVED by the Oroville City Council as follows:

Section 1. Applicant is hereby authorized and directed to apply for and submit to the Department the AHSC Program Application as detailed in the NOFA dated November 1, 2019, for round 5 in the total amount up to \$15,377,976.00 of which \$10,650,000 is requested as a loan for an Affordable Housing Development (AHD)('AHSC Loan") and \$4,727,976.00 is requested for a grant for Housing-Related Infrastructure(HRI), Sustainable Transportation Infrastructure (STI), Transit-Related Amenities (TRA) or Program (PGM) activities ('AHSC grant") as defined in the AHSC Program Guidelines adopted by SGC on October 31, 2019. If the application is approved, the Applicant is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement (Standard Agreement) in a total amount up to exceed \$15,337,976.00(\$10,650,000.00 for the AHSC Loan and \$4,727,976.00 for the AHSC Grant), and any and all other documents required or deemed necessary or appropriate to secure the AHSC Program funds from the Department, and all amendments thereto (collectively , the AHSC Documents")

Section 2. Applicant shall be subject to the terms and conditions as specified in the Standard Agreement. Funds are to be used for allowable capital asset project expenditures to be identified in Exhibit A of the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. Applicant hereby agrees to use the funds for eligible capital asset(s) in the

manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package.

Section 3. The City Administrator, or designee, is authorized to execute in the name of the Applicant the AHSC Program Application Package and the AHSC Program Documents as required by the Department for participation in the AHSC Program

Section 4. The Resolution shall be effective upon adoption.

Section 5. The Assistant City Clerk shall certify to the adoption of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting on January 7, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chuck Reynolds, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Jackie Glover, Assistant City Clerk



CITY OF OROVILLE STAFF REPORT

TO: OROVILLE CITY COUNCIL

FROM: LIZ EHRENSTROM, HUMAN RESOURCE MANAGER

**RE: CONSIDER AND APPROVE A JOB DESCRIPTIONS FOR COLLECTION
SYSTEM OPERATORS I, II AND LEAD FOR THE SEWER DIVISION**

DATE: JANUARY 7, 2020

SUMMARY

The City Council will consider and adopt job descriptions for Collection System Operator I, II and Lead for the Sewer Division.

DISCUSSION

The City Council will consider the adoption of the attached job descriptions for Collection System Operator I, II and Lead. Employees from the sewer division approached staff to revise their job descriptions to more accurately reflect the duties they perform in the sewer division. Staff has worked with the employees to create new job descriptions to include Collection System Operator I, II and Lead positions. Respective salary ranges will remain the same. Staff recommends approval.

FISCAL IMPACT

None

RECOMMENDATION

Approve the attached job descriptions for Collection System Operator I, II and Lead.

ATTACHMENTS

Lead Collection Systems Operator Job Description
Collection System Operator II Job Description
Collection system Operator I Job Description

COLLECTION SYSTEM OPERATOR I

DEFINITION

To perform skilled and semi-skilled manual labor in the construction maintenance and repair of city sewer systems, and related Infrastructures: To operate light and moderate heavy maintenance and construction equipment used on city sewer system projects: and to perform related duties and responsibilities as required.

SUPERVISION RECEIVED AND EXERCISED

Receives close supervision from Public Works Supervisor or Manager and direction from Collection System Lead Operator and Collection System Operator II.

EXAMPLES OF ESSENTIAL FUNCTIONS - *Essential functions may include, but are not limited to, the following:*

Performs heavy manual labor duties as required in the construction, maintenance and repair of city sewer systems, including but not limited to preparing street surfaces for patching, and/or shoveling and spreading gravel, sand, asphalt, and other materials on streets: assisting with the paving, patching, laying pipes for sewer, cleaning, maintaining, and repairing sewer mains, lines, and lift stations.

Sets forms and finishes concrete for manholes and cleanouts.

~~May operate light and moderately heavy construction and maintenance equipment including vehicles. Various trucks, Sewer jet rodder, street roller, manlift, tamper, lawn care equipment, concrete mixer, CCTV van: uses a two-way radio, masonry tools, carpentry tools, mechanic's tools, plumbing tools, various other common hand and power tools, measuring devices and safety gear.~~

Operates vehicles, various trucks, loader, backhoe, sewer jet rodder, street roller, manlift, tamper, lawn care equipment, concrete mixer: operates or uses a TV van/ camera, diagnostic tools, masonry tools, carpentry tools, mechanics tools, plumbing tools, welding tools, various other common hand and power tools, measuring devices, meters, and safety gear.

Loads and hauls water, gravel, rock, debris, and various other materials to and from construction sites.

May be required to accurately mark underground sewer and storm drain lines for private contractors and utility companies.

Transports and tows various pieces of equipment and materials to and from jobsites.

Provides traffic control around work sites, including setting up barricades, warning signs, cones, and flagging traffic.

Responds to emergency situations **with appropriate equipment** as required.

Performs general building and grounds maintenance work as requested: maintains clean and orderly work areas.

Performs weed abatement duties related to lift stations, off road lines, and easements.

Performs routine inspection and safety checks on equipment; cleans, maintains and performs minor adjustments to equipment as necessary.

Maintains routine records of work performed.

Performs all work in compliance with department policies and procedures, standards of quality and safety, approved plans and specifications.

Work on call during **evenings**, weekends and holidays as scheduled.

Assist with special projects or assignments as required.

MINIMUM QUALIFICATIONS

Knowledge of:

Modern principles, practices, techniques, equipment, materials and tools used in general construction and maintenance operations.

Safe and proper operation and maintenance of tools and equipment used in collection system construction and maintenance operations.

General use and purpose of construction maintenance materials.

Basic record keeping techniques.

Ability to:

Read, learn, understand and apply pertinent policies, procedure, regulations and standards.

Read and understand maps, sketches, diagrams and blueprints.

Perform heavy construction ~~work~~ and manual labor **work**.

Safely operate assigned equipment and tools: work safely in heavy traffic or limited space conditions.

Read and write at a level required for successful job performance.

Maintain **accurate** work records and prepare routine **reports** ~~records~~.

Perform mathematical computations with accuracy.

Establish and maintain effective working relationships with those contacted in the course of work.

Meet the physical requirements necessary to safely and effectively perform the required duties.

Understand and follow oral and written instructions.

Experience:

One year of experience in sewer collection system maintenance or general construction.

Education:

High school diploma or GED equivalent.

Additional Requirements:

Possession **and maintenance** of a valid California driver's license and the ability to obtain a class A **driver's** license within one year of employment. ~~(City will assist)~~

TYPICAL WORKING CONDITIONS

Work is regularly performed in field environment. Incumbent drives on surface streets, operates heavy machinery on surface streets and construction sites: traverse's uneven terrain on foot. Worker may be exposed to traffic and construction hazards, electrical currents, air contaminants, adverse weather conditions, temperature and noise extremes, wetness, humidity, heights, confined spaces, fumes, dusts, odors, toxic or caustic chemicals, pathogens, solvents, grease/oil, vibration.

TYPICAL PHYSICAL REQUIREMENTS

Requires the mobility and stamina to exert strenuous physical effort in a field environment. Requires the ability to operate vehicles and heavy equipment: walk, stand, climb, balance, stoop, kneel, crouch, crawl, and reach while performing field work: lift and or move up to 25 pounds frequently and up to 100 pounds occasionally: use hands to finger, handle, feel, or operate objects, tools and controls. Tasks require visual and sound perception and discrimination, and oral communications ability.

This class specification lists the major duties and requirements of the job and is not all inclusive. Incumbents may be expected to perform job related duties other than those contained in this document.

COLLECTION SYSTEM OPERATOR II

DEFINITION

To operate light to heavy equipment in the construction, maintenance and repair of city sewer systems, and related infrastructures: to perform heavy manual labor when equipment operation is unnecessary: and to perform related duties and responsibilities as required.

SUPERVISION RECEIVED AND EXERCISED

Receives supervision from Public Works Supervisor or Manager and direction from collection system lead operator: may provide direction to collection system operator I.

EXAMPLES OF ESSENTIAL FUNCTIONS - *Essential functions may include, but are not limited to, the following:*

~~Performs heavy manual labor duties as required, when equipment operation unnecessary, including, but not limited to shoveling and spreading gravel, sand, asphalt and other materials on streets: assisting with paving and patching streets: laying pipes for sewer system, cleaning, maintaining and repairing sewer mains and lift stations.~~

Performs heavy manual labor duties as required in the construction, maintenance and repair of city sewer systems, including but not limited to preparing street surfaces for patching, and/or shoveling and spreading gravel, sand, asphalt, and other materials on streets: assisting with the paving, patching, laying pipes for sewer, cleaning, maintaining, and repairing sewer mains, lines, and lift stations.

Sets forms and finishes concrete for manholes **and** cleanouts.

Operates vehicles, various trucks, loader, backhoe, sewer jet rodder, street roller, manlift, tamper, lawn care equipment, concrete mixer: operates or uses a tv van/camera, diagnostic tools, masonry tools, carpentry tools, mechanics tools, plumbing tools, welding tools, various other common hand and power tools, measuring devices, meters, and safety gear.

Loads and hauls water, gravel, rock, debris, and various other materials to and from construction sites.

May be required to accurately mark underground sewer and storm drain lines for private contractors and utility companies.

Provides traffic control around work sites, including setting up barricades, warning signs and cones, and flagging traffic.

Responds to emergency situations **with appropriate equipment** as required.

Performs general building and grounds maintenance work as requested: **maintains clean and orderly work areas.**

Performs weed abatement duties related to lift stations, off road lines **and** easements.

Performs routine inspection and safety checks on equipment; cleans, maintains and performs minor adjustments to equipment as necessary.

Maintains routine records of work performed and materials used.

Performs all work in compliance with department policies and procedures, standards of quality and safety, approved plans and specifications.

Work on call during evenings, weekends, and holidays as scheduled.

Assist with special projects or assignments as required.

Operates heavy, power driven equipment in the construction and maintenance of city sewer system.

Transports and tows various pieces of equipment to and from job sites; loads and hauls water, gravel, rock, debris, and various other materials to and from construction sites.

Assists with stocking and maintaining supply inventory.

Assist with employee training as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Modern principles, practices, techniques, equipment, materials and tools used in general construction and maintenance operations.

Safe and proper operation and maintenance needs of heavy construction/maintenance equipment; safe and proper use of other tools and equipment used in city sewer system construction and maintenance operations.

General use and purpose of construction and maintenance materials.

Basic record keeping and report preparation techniques.

Department policies, procedures and standards related to city sewer system, construction **projects** and maintenance operations.

Ability to:

Read, **learn**, understand and apply pertinent policies, procedures and regulations **standards.**

Read and understand **maps**, sketches, diagrams and blueprints.

Perform heavy construction and manual labor work.

Safely operate **assigned** equipment and tools; work safely in heavy traffic or limited space conditions.

Read and write at a level required for successful job performance.

Maintain **accurate work records** and prepare routine ~~records and~~ reports.

Perform mathematical computations with accuracy.

Establish and maintain effective working relationships with those contacted in the course of work.

Meet the physical requirements necessary to safely and effectively perform the required duties.

Understand and follow oral and written instructions.

Experience:

Two years of experience in sewer system maintenance and construction, including the operation of light equipment such as trucks, tractors and related maintenance equipment.

Education:

High school diploma or GED equivalent.

Additional Requirements:

Possession **and maintenance** of a valid California Class A **driver's** license.

TYPICAL WORKING CONDITIONS

Work is regularly performed in field environment. Incumbent drives on surface streets operates heavy machinery on surface streets and construction sites: traverse's uneven terrain on foot. Worker may be exposed to traffic and construction hazards, fire hazards, electrical currents, air contaminants, adverse weather conditions, temperatures and noise extremes, wetness, humidity, heights, confined spaces, fumes, dusts, odors, toxic or caustic chemicals, pathogens, solvents, grease/oil, vibration.

TYPICAL PHYSICAL REQUIREMENTS

Requires the mobility and stamina to exert strenuous physical effort in a field environment. Requires the ability to operate vehicles and heavy equipment: walk, stand, climb, balance, stoop, kneel, crouch, crawl, and reach while performing field work: lift and/or move up to 25 pounds frequently and up to 100 pounds occasionally: use hands to finger, handle, feel or operate objects, tools and controls. Tasks require visual and sound perception and discrimination and communications ability.

This class specification lists the major duties and requirements of the job and is not all-inclusive. Incumbents may be expected to perform job-related duties other than contained in this document.

LEAD COLLECTION SYSTEM LEAD OPERATOR**DEFINITION**

To provide lead direction and participate in the operation of light and heavy equipment in the construction, maintenance and repair of city sewer system, and related infrastructures: and perform related duties and responsibilities as required.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Public Works Operations Supervisor or Manager.
May provide direction to Collection System Operator I and II.

EXAMPLES OF ESSENTIAL FUNCTIONS - *Essential functions may include, but are not limited to, the following:*

~~Performs heavy manual labor duties as required. when equipment operation unnecessary, including, but not limited to shoveling and spreading gravel, sand, asphalt and other materials on streets: assisting with paving and patching streets: laying pipes for sewer system, cleaning, maintaining and repairing sewer mains and lift stations.~~

Performs heavy manual labor duties as required in the construction, maintenance and repair of city sewer systems, including but not limited to preparing street surfaces for patching, and/or shoveling and spreading gravel, sand, asphalt, and other materials on streets: assisting with the paving, patching, laying pipes for sewer, cleaning, maintaining, and repairing sewer mains, lines, and lift stations.

Designs, sets forms, and finishes concrete for manholes and cleanouts.

Operates vehicles, various trucks, loader, backhoe, sewer jet rodder, street roller, manlift, tamper, lawn care equipment, concrete mixer: operates or uses a TV van/ camera, diagnostic tools, masonry tools, carpentry tools, mechanics tools, plumbing tools, welding tools, various other common hand and power tools, measuring devices, meters, and safety gear.

Loads and hauls water, gravel, rock, debris, and various other materials to and from construction sites.

Oversees traffic control efforts around work sites, including setting up barricades, warning signs, cones, and flagging traffic.

Responds to emergency situations with appropriate equipment as required.

Performs general building and grounds maintenance work as requested: **maintains clean and orderly work areas.**

Performs weed abatement duties related to lift stations, off road lines **and** easements.

Performs routine inspection and safety checks on equipment; cleans, maintains and performs minor adjustments to equipment as necessary.

~~Cleans, maintains and performs minor adjustments to equipment as necessary.~~

Maintains routine records of work performed and materials used.

Performs all work in compliance with department policies and procedures, standards of quality and safety, approved plans and specifications.

Work on call during evenings, weekends, and holidays as scheduled.

Assists with special projects or assignments as required.

Operates heavy, power driven equipment in the construction and maintenance of city sewer system.

Transports and tows various pieces of equipment to and from job sites; loads and hauls water, gravel, rock, debris, and various other materials to and from construction sites.

Assists with stocking and maintaining supply inventory.

Provides leadership and assistance to subordinate collection system operators on assigned projects **and** participates in employee training.

Receives, distributes and explains work assignments to crew members.

Assists in estimating materials for projects and repairs.

Inspects the work of subordinates and contractors for compliance with department policies and procedures, standards of quality and safety, approved plans and specifications.

Locates and marks underground sewer and storm drain lines for private contractors and utility companies.

Receives and responds to inquiries, requests for assistance, concerns and complaints from the public regarding city sewer system.

Performs the duties of Public Works Operations Supervisor or Manager in his/her absence.

MINIMUM QUALIFICATIONS

Knowledge of:

Modern principles, practices, techniques, equipment, materials and tools used in city sewer system construction and maintenance operations.

Safe and proper operation and maintenance needs of heavy construction/maintenance equipment: safe and proper use of other tools and equipment used in city sewer system construction and maintenance operations.

General use and purpose of construction and maintenance materials.

Basic record keeping and reporting preparation techniques.

Department policies, procedures and standards related to city sewer system, construction projects and **maintenance operations**.

Pertinent federal, state and local laws, regulations, codes and ordinances.

Methods of training and leadership.

Ability to:

Read, understand and apply pertinent federal, state and local laws, codes, ordinances, rules and regulations.

Read and understand complex plans, **sketches**, specifications and blueprints.

Perform heavy construction ~~work~~ and heavy manual labor work.

Safely operate assigned equipment and tools; work safely in heavy traffic or limited space conditions.

Read and write at a level required for successful job performance.

Maintain accurate work records and prepare routine reports.

Perform mathematical computations with accuracy.

Establish and maintain effective working relationships with those contacted in the course of work.

Meet the physical requirements necessary to safely and effectively perform the required duties.

Train, coordinate and oversee the work of others in a lead supervisory capacity.

Coordinate, work and perform confined space activity in accordance with applicable health and safety standards.

Operate and maintain electrical control panels for machinery and equipment such as wastewater treatment plants and pump stations.

Apply technical knowledge and follow proper inspection techniques to examine workmanship and materials, and detect deviations from plans, specifications, regulations and standard construction practices.

Accurately estimate equipment and materials required to complete assigned projects.

Experience:

Four years of experience in sewer system maintenance and construction.

Education:

High school diploma or GED equivalent.

Additional Requirements:

Possession **and maintenance** of a valid California Class A **driver's** license.

TYPICAL WORKING CONDITIONS

Work is regularly performed in field environment. Incumbent drives on surface streets, operates heavy machinery on surface streets and construction sites: traverse's uneven terrain on foot. Worker may be exposed to traffic and construction hazards, fire hazards, electrical currents, air contaminants, adverse weather conditions, temperatures and noise extremes, wetness, humidity, heights, confined spaces, fumes, dusts, odors, toxic or caustic chemicals, pathogens, solvents, grease/oil, vibration.

TYPICAL PHYSICAL REQUIREMENTS

Requires the mobility and stamina to exert strenuous physical effort in a field environment. Requires the ability to operate vehicles and heavy equipment: walk, stand, climb, balance, stoop, kneel, crouch, crawl, and reach while performing field work: lift and/or move up to 25 pounds frequently and up to 100 pounds occasionally: use hands to finger, handle, feel or operate objects, tools and controls. Tasks require visual and sound perception and discrimination and communications ability.

This class specification lists the major duties and requirements of the job and is not all-inclusive. Incumbents may be expected to perform job-related duties other than contained in this document.



CITY OF OROVILLE STAFF REPORT

TO: OROVILLE CITY COUNCIL

FROM: LIZ EHRENSTROM, HUMAN RESOURCE MANAGER

RE: CONSIDER AND ADOPT THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEE'S ASSOCIATION AND AUTHORIZATION TO GRANT STEP H TO ONE EMPLOYEE

DATE: JANUARY 7, 2020

SUMMARY

The City Council will consider and adopt the new amended and restated Memorandum of Understanding between the City of Oroville and the Oroville City Employee's Association (OCEA) and to authorize Step H for one employee.

DISCUSSION

City staff has been meeting with the Oroville City Employee's Association (OCEA) for a successor Memorandum of Understanding and have come to an agreement. Highlights of the agreement include 3% COLA increases upon ratification and July 1 of 2020, 2021 and 2022 for a 3-year term from January 7, 2020 through January 6, 2023, which includes OCEA member's agreeing to Advisory Arbitration. Staff is recommending adoption of this Memorandum.

Staff is also seeking authorization to move a previous Park Maintenance Technician to Step H of the current salary range. This employee was hired as a park maintenance technician I, which did similar work to that of a public works operator I. However, the public works operator I salary range was approximately 45% above the park tech I salary range. Staff had talked for years about making these positions equal on the same salary range since the Park Maintenance Technician and Public Works Operator II and III's were already on the same salary range. Staff finally made the salary ranges the same with the budget that passed for fiscal year starting July 1, 2019. However, this created an inequality between the park maintenance technician I and the current park tech I employee.

FISCAL IMPACT

Effective Date	Amount
1/2020	\$19,606
7/2020	\$43,069
7/2021	\$44,361
7/2022	<u>\$45,692</u>
Total Salary and Benefits	<u>\$152,728</u>

RECOMMENDATION

Adopt Resolution No. 8829 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OROVILLE AND THE OROVILLE CITY EMPLOYEE'S ASSOCIATION – (Agreement No. 1432-15).

Approve and authorize staff to move one employee to Step H of the current salary range.

ATTACHMENTS

Resolution No. 8829 – Will be provided under separate cover

Agreement 1432-15 – Will be provided under separate cover



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: BILL LAGRONE, CITY ADMINISTRATOR

RE: FIRST READING OF A DRAFT ORDINANCE OF THE CITY OF OROVILLE AMENDING SECTIONS 17.04.060 AND 5.28.010 AND ADDING SECTIONS 5.28.095, 5.28.130 AND 5.28.140 OF THE OROVILLE MUNICIPAL CODE REGARDING PROHIBITING THE SALE OF FLAVORED TOBACCO

DATE: JANUARY 7, 2020

SUMMARY

The Council will hold a public hearing to consider approving the first reading of an ordinance to prohibit the sale of flavored tobacco within the City limits. Input will be considered from the Planning Commission and the public on both sides of the issue.

DISCUSSION

In the interest of improved public health and especially for Oroville's youth, on October 1, 2019, the City Council heard for the second time testimony from many individuals and groups who pointed out the health effects and increasing use by youth of e-cigarettes and flavored tobacco liquids. The Council then directed staff to prepare an ordinance to prohibit the sale of flavored tobacco products within the City limits. Because some of the code changes would affect Title 17 (Zoning Code), the Council also directed the Planning Commission to hear the question¹.

The Planning Commission met twice on the issue and recommended that the City Council take no action at this time to ban or limit flavored tobacco products in Oroville. Instead the Commission recommends the City send a letter to the Governor and the State Legislature urging immediate action to ban flavored vaping products statewide, and/or take other appropriate measures to protect the health of our State's youth. The primary reason for this recommendation was to avoid creating a commercial advantage to tobacco retailers outside the city limits at the expense of our retailers. More background can be found in the Commission's October 29 and November 21 meeting agenda packets (attached).

There is almost universal acknowledgement that vaping by our youth has reached epidemic proportions across the nation, and the Federal government, the State

¹ The Planning Commission's charge in this case was to " evaluate information from staff and testimony for the purpose of making recommendations to guide legislative action" from The Job of the Planning Commissioner, by Albert Solnit, ©1987, 3rd edition revised, page 5.

government, and dozens of local jurisdictions are acting to restrict, educate, and/or study vaping and its health effects. On October 1, there were 29 California jurisdictions that had enacted some form of an ordinance. As of November 14 there are over 50 who had done so.

The attached draft ordinance prohibits the sale by any retailer of all flavored tobacco products including menthol, whether smoked, chewed or vaped. It is modeled after the enacted Sacramento City Ordinance.

If approved, the second reading and adoption would be scheduled for Tuesday, January 20, 2020.

FISCAL IMPACT

Assuming a ban on all flavored tobacco products, the lost sales of e-cigarettes and other flavored tobacco products would mean minimal sales tax revenue losses to the City -- in the range of \$10,000 - \$20,000 per year. Total sales tax revenues in 2018 from those likely to be tobacco retailers were \$660,334 (service stations, food markets, and liquor stores combined). However, if Oakland's experience is repeated in Oroville and our stores are bypassed, lost City sales tax revenue could be up to \$90,000 per year.

RECOMMENDATION

Provide direction to staff on these options:

1. Approve first reading of ordinance as is, which prohibits the sale of all flavored tobacco products within the City limits;
2. Modify the ordinance to allow sale of flavored tobacco products at Oroville's five smoke shops only;
3. Adopt the Planning Commission's recommendation to take no action, but send a letter encouraging the State to prohibit flavored tobacco products statewide;
4. If adopting a ban, the Council may also consider whether to make the ban effective immediately or to wait a period of time to allow retailers to sell their existing inventory.

ATTACHMENTS

1. Draft ordinance assuming a full ban on flavored tobacco products.
2. Planning Commission and Council meeting staff reports and backup materials.

Oroville Municipal Code

Proposed changes to affect a prohibition on flavored tobacco products

These changes are intended to prohibit the sale of flavored tobacco products in the City of Oroville. The changes will:

1. Effectively remove flavored tobacco products from smoke shops and from stores that sell tobacco under a Tobacco Retailers License;
2. Continue to prohibit sale of tobacco products and/or paraphernalia to persons younger than the minimum age;
3. Will not eliminate the sale of electronic cigarettes, but will prohibit selling any product other than tobacco or nicotine for use with them;
4. "Smoking" as defined in OMC 9.04.170 includes ... "inhaling, exhaling burning or carrying any lightedcombustible substance in any manner and in any form." Smoking, including vaping, will thus continue to be prohibited in enclosed public places and other places as defined;

ORDINANCE OF THE CITY OF OROVILLE AMENDING SECTIONS 17.04.060 AND 5.28.010 AND ADDING SECTIONS 5.28.095, 5.28.130 AND 5.28.140 OF THE OROVILLE MUNICIPAL CODE REGARDING PROHIBITING THE SALE OF FLAVORED TOBACCO

WHEREAS, tobacco use remains the leading cause of preventable death in the United States, killing more than 480, 000 people each year. It causes or contributes to many forms of cancer, as well as heart disease and respiratory diseases, among other health disorders. Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes. the financial costs it imposes on society, and the burdens it places on our health care system; and

WHEREAS, flavored tobacco products are commonly sold by California tobacco retailers. For example: 97.4% of stores that sell cigarettes sell menthol cigarettes; 94.5% of stores that sell little cigars sell them in flavored varieties; 84.2% of stores that sell electronic smoking devices sell flavored varieties; and 83.8% of stores that sell chew or snus sell flavored varieties; and

WHEREAS, each day, approximately 2,500 children in the United States try their first cigarette; and another 8,400 children under 18 years of age become new regular, daily smokers. 81% of youth who have ever used a tobacco product report that the first tobacco product they used was flavored. Flavored tobacco products promote youth initiation of tobacco

use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products. As tobacco companies well know, menthol, in particular, cools and numbs the throat to reduce throat irritation and make the smoke feel smoother, making menthol cigarettes an appealing option for youth who are initiating tobacco use. Tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a "graduation strategy" to encourage new users to start with tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine. It is therefore unsurprising that young people are much more likely to use menthol-, candy and fruit-flavored tobacco products, including not just cigarettes but also cigars, cigarillos, and hookah tobacco, than adults. Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle school and high school smokers report using flavored little cigars or flavored cigarettes. Further, the Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015. Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes, are sold in thousands of flavors that appeal to youth, such as cotton candy and bubble gum; and

WHEREAS, much as young people disproportionately use flavored tobacco products including menthol cigarettes, the same can be said of certain minority groups. In one survey, the percentage of people who smoke cigarettes that reported smoking menthol cigarettes in the prior month included, most dramatically, 82.6% of Blacks or African-Americans who smoke cigarettes. The statistics for other groups were: 53.2% of Native Hawaiians or other Pacific Islanders who smoke cigarettes; 36.9% of individuals with multiracial backgrounds who smoke cigarettes; 32.3% of Hispanics or Latinos who smoke cigarettes; 31.2% of Asians who smoke cigarettes; 24.8% of American Indians or Alaska Natives who smoke cigarettes; and 23.8% of Whites or Caucasians who smoke cigarettes. People who identify as LGBT and young adults with mental health conditions also struggle with disproportionately high rates of menthol cigarette use. The disproportionate use of menthol cigarettes among targeted groups, especially the extremely high use among African-Americans, is troubling because of the long-term adverse health impacts on those groups; and

WHEREAS, between 2004 and 2014, overall smoking prevalence decreased, but use of menthol cigarettes increased among both young adults (ages 18-25) and other adults (ages 26+). These statistics are consistent with the finding that smoking menthol cigarettes reduces the likelihood of successfully quitting smoking. Scientific modeling has projected that a national ban on menthol cigarettes could save between 300,000 and 600,000 lives by 2050.

NOW THEREFORE, the City Council of the City of Oroville does ordain as follows:

SECTION 1. Oroville Municipal Code Section 17.04.060 is hereby amended as follows:

Characterizing Flavor. *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, alcohol beverage, herb, or spice. 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. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.*

"Flavored tobacco product" *means any tobacco product that contains a constituent that imparts a characterizing flavor.*

.....

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 title, 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 title, electronic cigarettes are considered a tobacco product. For the purposes of this title, tobacco products exclude products with a characterizing flavor.

SECTION 2. Oroville Municipal Code Section 5.28.010 is hereby amended to read as follows:

"5.28.010 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:

"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 2 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.

“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, alcohol beverage, herb, or spice. 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. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes a characterizing flavor.

“Flavored tobacco product” means any tobacco product that contains a constituent that imparts a characterizing flavor.

“Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

“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 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.

“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.

“Smoking.” Refer to Section 9.04.170 for definition.

“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.

“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. *For the purposes of this title, tobacco products exclude products with a characterizing flavor.*

“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. (Ord. 1794 § 1)”

SECTION 3. Section 5.28.095 is hereby added to the Oroville Municipal Code to read as follows:

“5.28.095 Sale or offer for sale of flavored tobacco products prohibited.

(a)The sale or offer for sale, by any person or tobacco retailer of any flavored tobacco product is prohibited and no person or tobacco retailer shall sell, or offer for sale, any flavored tobacco product.

(b)There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, 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 a characterizing flavor.”

SECTION 4. Sections 5.28.130 and 5.28.140 are hereby added to the Oroville Municipal Code to read as follows:

“5.28.130 No conflict with federal or state law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty that is preempted by federal or state law.

5.28.140 Severability.

If any provision, section, subsection, sentence, clause, phrase, or word of this Chapter 5.28, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the chapter. The City Council hereby declares that it would have passed this chapter, and each provision, section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional.”



City of Oroville

Leonardo DePaola
Community Development Director

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PLANNING COMMISSION STAFF REPORT

Thursday, November 21, 2019

RE: ORDINANCE TO LIMIT OR PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE

SUMMARY: The Planning Commission may consider recommending to the City Council adoption of changes to Title 17 of the Oroville Municipal Code in order to limit or prohibit the sale of flavored tobacco products.

RECOMMENDATION: That the Planning Commission consider several options to regulate flavored tobacco, and after consideration recommend to the City Council whether they should adopt changes to Oroville Municipal Code 17.04.060, and corresponding changes to Oroville Municipal Code 5.28.010.

APPLICANTS: None

LOCATION: City wide

GENERAL PLAN: NA

ZONING: NA

FLOOD ZONE: NA

ENVIRONMENTAL DETERMINATION: Not a project under CEQA (para 21065 & CEQA Guidelines 15378(b)(5))

REPORT PREPARED BY:

REVIEWED BY:

Wes Ervin, Senior Planner
Community Development Department

Leonardo DePaola, Director
Community Development Director

DISCUSSION

In the interest of improved public health and especially for Oroville's youth, on October 1, 2019, the City Council heard testimony from many individuals and groups who pointed out the health effects and increasing use by youth of e-cigarettes and flavored tobacco liquids. All acknowledge that vaping has reached epidemic proportions across the nation. The Council then directed staff to prepare an ordinance to prohibit the sale of flavored tobacco products within the City limits. On October 1, there were 29 jurisdictions that had

enacted some form of an ordinance. As of November 14 there are 50 who have done so. Some of these changes involve amendments to Title 17, which is the purview of the Planning Commission. Accordingly, the Commission is asked to review at its earliest opportunity recommended changes to Title 17 and Title 5 of the Oroville Municipal Code, and to forward the Commission's recommendations to the City Council for action.

At its October 29, 2019 meeting the Planning Commission conducted a public hearing and considered the proposed changes, which included:

- Amending the definitions in OMC 17.04.060 (Zoning Code) to separate flavored tobacco from tobacco products so they can be separately regulated;
- Amending the definitions in OMC 5.28.010 (tobacco retailers), to separate flavored tobacco from tobacco products. Tobacco retailers will thus be prohibited from selling flavored tobacco products;
- No changes to OMC 17.16.190 (Smoke Shops). with the definition changes proposed above, Smoke shops will be prohibited from selling flavored tobacco products to minors or adults;
- No changes to OMC 9.04.170 (Regulation of Smoking). Smoking, including vaping and use of electronic cigarettes, will still be prohibited wherever already prohibited.

After discussion, rather than accept the recommended ordinance the Commission directed staff to develop information on three less restrictive options:

1. Take no action, assuming the State will soon take action that affects all jurisdictions;
2. Design a more nuanced ordinance that is less restrictive but still targets youth access to vaping and flavored products. May also include hiding flavored products on store shelves.
3. Design an ordinance that limits flavored tobacco products to smoke shops.

The Chairman also encouraged staff to meet with retailers to get more input prior to the November 21 meeting.

No Action Option

If the City takes no action, it would do so with the expectation that the State or Federal governments will ultimately take action against vaping and/or e-cigarettes.

Governor Newsom issued on September 16 an executive order directing a \$20 Million campaign to educate youth, young adults, and parents about the health risks of vaping and cannabis, and to post warning signs where these products are sold.

The State Assembly Committee on Health held an informational hearing on October 16, 2019¹. Assembly members Gray and McCarty are now expected to introduce legislation to regulate vaping, e-cigarettes and/or e-liquids.

The FDA is advancing a policy to address youth e-cigarette use, but has wavered on

¹ https://cheac.org/2019/10/18/assembly-holds-joint-informational-hearing-on-vaping-tobacco-and-cannabis-products/?utm_source=rss&utm_medium=rss&utm_campaign=assembly-holds-joint-informational-hearing-on-vaping-tobacco-and-cannabis-products

banning them until the policy is finalized².

Limiting sales to Smoke Shops Option

The rules for sale of tobacco products are the same at smoke shops and tobacco retailers, though our five smoke shops all have Use Permits and typically have more security and limit patronage to adults only. The City's smoke shops would certainly gain much of the sales lost by tobacco retailers, generating some but not all of the foregone tax revenues.

Nuanced and Less Restrictive Ban Options

Less restrictive bans that still try to limit youth access have included some of the approaches below.

1. Nine jurisdictions exempt menthol from their bans, which is a long-standing flavor in regular cigarettes, and the only flavor FDA allows in cigarettes;
2. Limit the ban to e-cigarettes and associated e-liquids;
3. Limit the ban to flavored e-liquids only, exempting pure liquid nicotine, and still allowing e-cigarettes;
4. Ban online sales by sellers located within the jurisdiction;
5. Prohibit new tobacco retailers within 500 feet of an existing one, or of a school;
6. Limit sales of flavored cigars and cigarillos to packs of 5 or 20;
7. Extend the smoking ban to more public places such as parks and public events;
8. Cap the number of tobacco retailers, much like smoke shops are now limited;
9. Enact a ban, but delay effective dates and enforcement to give retailers time to adjust, and/or give the State Legislature time to act.

Three examples of unique ordinances:

- Mono County -- April 17, 2018
 - Mono County prohibited the sale of flavored e-liquids for one year, excluding other flavored tobacco products. However, since October 2019 the County now has a complete ban on all flavored tobacco products;
 - The County also banned smoking in county vehicles, public parks, recreational areas, service areas, dining areas, and public places when used as a public event;
- Richmond -- July 17, 2018
 - Banned sale of all electronic smoking devices in stores or online;
 - Limits minimum pack size of 20 cigarettes or cigars/cigarillos, except those sold for over \$5 apiece;
 - Now prohibits new tobacco retailers from opening within 500 feet of another tobacco retailer, or within 1,000 feet of a school, park, playground or library;
 - Delayed enforcement until January 1, 2020;

² <https://www.cnbc.com/2019/11/13/trump-administration-wavers-on-ban-of-flavored-e-cigarettes-no-final-answer.html>

- San Francisco -- June 27, 2017 (referendum vote June 5, 2018).
 - Banned sale of all electronic smoking devices in stores or online;
 - Bans new tobacco retailers after a maximum of 45 per supervisorial district;
 - Prohibits new tobacco retailers from opening within 500 feet of a school or another tobacco retailer;
 - Enforced beginning January 1, 2019

Since the options are many, staff will develop a specific draft ordinance after hearing direction from the Commission, and will prepare to present the draft to the Council.

Enforcement and Education Considerations

Staff consulted the Police Department for this item. Most tobacco related enforcement issues are about e-cigarettes, vaping, and youth use of tobacco. Menthol and other flavorings in cigarettes, cigars and smokeless tobacco are much more benign. Thus, from the enforcement standpoint the most effective ban would be e-cigarettes and e-liquids only.

There are laws that restrict placement of tobacco products in stores, but compliance is uncertain (e.g. behind the counter vs. on the counter). A code compliance effort may be indicated.

In addition, there is data to suggest that one third of smoke shops sell to minors statewide, and that 19% of all tobacco retailers do in fact frequently sell to minors despite the law. The Butte County Sheriff's Office has conducted several sting operations, including as recently as last month.

A ban limited to e-liquids and/or flavored tobacco will help but their effectiveness is limited, because online sales, buying at the two reservations, illicit sales, and adults supplying youth will all continue regardless. Education is thus a critical component of limiting access to youth. In addition to the many nonprofit organizations now educating our youth, the Oroville Police Department has received a 3-year Department of Justice grant for \$424,240 to help educate students at the Oroville City Elementary School District (OCESD), including hiring dedicated staff, installing cameras and smoke and vapor detectors, and increased monitoring of tobacco retailers near schools. OPD and OCESD are now actively engaged in tobacco prevention education for grades 4-8, and are actively supporting other anti-smoking programs.

Economic Loss to Retailers of a Flavored Tobacco Ban

The City has 40 licensed tobacco retailers, of which 16 appear to be C-stores (gas stations/mini-marts). Gas station/mini marts are typically among the highest sales tax generators in a community. Others are grocery markets of all sizes (13), liquor stores (3), smoke shops (5), and drug stores (3). Note that Raley's and CVS have corporate policies not to carry tobacco products.

Some national sales data are available for convenience stores from the National Association of Convenience Stores³. Using that data, staff estimates that the direct

³ 2018 NACS State of the Industry Summit, published by CSPdailynews.com, Volume 29, Issue 7
<http://cdn.coverstand.com/20858/497321/9ff769c3ec0939592ebae907b4ea96529ca9fc3a.5.pdf>

sales of e-cigarettes at the average C-store to be about \$12,000 per year, or less than 1% of total store sales. Average C-store tobacco sales including cigarettes, cigars, smokeless tobacco and paraphernalia total \$102,000 per year, or 43% of total sales. Cigarettes are the largest component of tobacco sales.

A ban on flavored tobacco products affects more than just that specific product. Patrons seeking e-cigarettes also purchase other goods at the same time. Those stores that do not carry flavored tobacco products would lose a greater percentage of sales due to customers bypassing that store, instead purchasing gasoline and other products elsewhere. The two Tribal casinos both have gas stations, mini marts and smoke shops, which would presumably gain from a ban, as would Billy Bob's Market and other stores in Thermalito.

For example, Oakland limited the sale of flavored tobacco products effective July 1, 2018. According to the APCA, the effect to C-store sales was lost revenue of 11% to fuel sales, 52% in cigarette and tobacco sales, and 20.47% overall. Similar data is not available for liquor stores and smoke shops, but the impact to sales at those stores would of course be much greater.

Input from Organizations Received to Date (in order received)

In addition to the many individuals who have testified, the following organizations have provided input to the City Council and/or Planning Commission. Some are attached:

1. The California Health Collaborative has presented, and has provided much information about the health effects of vaping, tobacco, and of youth access to those products. Data they provided is included in prior staff reports;
2. The County Department of Health has presented, and supports a ban on flavored tobacco products;
3. 92 individual form letters were received opposing a ban of flavored tobacco products;
4. The Cancer Action Network supports the ban – letter attached
5. The American Petroleum and Convenience Store Association opposes the ban and supports waiting until the State acts – letter and email attached

FISCAL IMPACT

Assuming a ban on all flavored tobacco products, the lost sales of e-cigarettes and other Tobacco (OTP) products would mean minimal sales tax revenue losses to the City -- in the range of \$10,000 - \$20,000 per year. Total sales tax revenues in 2018 from those likely to be tobacco retailers were \$660,334 (service stations, food markets, and liquor stores combined). However, if Oakland's experience is repeated in Oroville, lost sales tax revenue could be up to \$90,000 per year.

ATTACHMENTS

1. City Council staff report of October 1, 2019
2. Planning Commission staff report of October 24/29, 2019
3. Assembly Informational Hearing background paper of October 16, 2019
4. Updated matrix of flavored tobacco ordinances as of 11-14-19
5. Selected correspondence supporting and opposing the ban
6. Changes to Oroville Municipal Code assuming a full ban



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: BILL LAGRONE, CITY ADMINISTRATOR
RE: LIMITING OR PROHIBITING THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE
DATE: OCTOBER 1, 2019

SUMMARY

The Council may consider adopting an ordinance that either limits the sale of flavored tobacco products to smoke shops, or that prohibits the sale outright.

DISCUSSION

In 2017 the City Council considered but did not enact an ordinance restricting the sale of Menthol cigarettes and other flavored tobacco products. At its last meeting on September 17, 2019, the Council heard a presentation by the California Health Collaborative about the problems associated with menthol and other flavored tobacco products. They directed staff to bring an agenda item forward for consideration.

Now there are a plethora of well-documented health issues associated with the use of this type of product, there is a high percentage of use by youth, and policymakers everywhere are acting. For instance:

1. The California Department of Health and Governor Newsome are actively warning about the health issues of flavored tobacco use in the media, including that there have been 4 deaths and hundreds of illnesses in the State;
2. The Trump Administration announced on September 11 that it is moving to pull flavored e-cigarettes from the market until/unless they are approved by the FDA¹;
3. The makers and sellers of flavored cigarettes are under tremendous public pressure by public officials at all levels of government. On September 25 the CEO of Juul stepped down, the company announced it would stop saying their

¹ <https://www.npr.org/sections/health-shots/2019/09/11/759851853/fda-to-banish-flavored-e-cigarettes-to-combat-youth-vaping>

products are safer than traditional cigarettes, and would not oppose new regulations for their products.²

4. Local and state governments across the country have enacted laws prohibiting or restricting the sale of flavored tobacco, including 37 in California (e.g. San Francisco, Hermosa Beach, Cloverdale, and Sacramento). On 9/24/19, the LA County Board of Supervisors became the latest - voting unanimously to ban flavored tobacco products.

How many retailers in Oroville will be affected?

There are 40 tobacco retailers in Oroville that sell tobacco as part of their product lines, and 5 smoke shops whose main business is tobacco and tobacco products. Three smoke shops are on Oro Dam Blvd, one is on Lincoln Blvd, and the fifth is on Feather River Blvd @ Bird St. Prohibition would eliminate a significant line of business at the 5 smoke shops. The sale of unflavored tobacco and tobacco products would not be affected.

What is a flavored tobacco product?

The ordinances of Hermosa Beach and Sacramento both define a flavored tobacco product as any tobacco product that imparts a characterizing flavor regardless of the name of the product. For example: "Tropical Mist" may be characterized as smelling / tasting like coconut

"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, alcohol beverage, herb, or spice.

FISCAL IMPACT

Limiting sale to smoke shops would have an undetermined but limited effect on annual sales at 40 stores that sell tobacco products in Oroville.

A prohibition would have a significant effect on sales at the five smoke shops.

RECOMMENDATION

Direct staff to prepare an ordinance that distinguishes between tobacco products and flavored tobacco products, and that also:

1. Limits the sale of all flavored tobacco products to smoke shops
- or
2. Prohibits the sale of all flavored tobacco products within City limits.

and

² <https://www.nytimes.com/2019/09/25/health/juul-vaping.html>

Direct Staff to bring the matter before the Planning Commission on October 24, then to Council for a First reading on November 5 or 19, and a second reading as soon as possible after that.

ATTACHMENTS

1. California Medical Association White Paper on Flavored and Mentholated Tobacco Products;
2. California Matrix of Local Flavored Tobacco Product ordinances;
3. Model California Ordinance Restricting Sale
4. Hermosa Beach Ordinance
5. Sacramento City Ordinance

Flavored and Mentholated Tobacco Products: Enticing a New Generation of Users

CMA White Paper

May 2016



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This document was prepared by the California Medical Association and reviewed by its Council on Science and Public Health, a panel of physician experts, with input from subject matter researchers. It was approved by the CMA Board of Trustees on April 21, 2016.

CMA would like to thank the following organizations and individuals for their feedback and assistance in the writing of this paper: CMA Foundation; Network of Ethnic Physician Organizations; University of California, San Francisco; the LOOP; Valerie Yerger, ND; Bettina Frieese; African American Tobacco Control Leadership Council; Phillip Gardiner, DrPH; Rosalind A. Kirnon, MD; Janine Bera, MD; Donald Lyman, MD, MPH; Gordon Fung, MD; Robert Oldham, MD; Pamela Ling, MD, MPH; and Bonnie Halpern-Felsher, PhD, FSAHM.

This publication was made possible by financial support provided to the California Department of Public Health by the Centers for Disease Control and Prevention, Cooperative Agreement, grant number 1U58DP005969-01. The views expressed in this paper are those of the California Medical Association and do not necessarily reflect the policies or official views of the California Department of Public Health, the Department of Health and Human Services, nor does the mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government or the California Department of Public Health.

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The California Medical Association's (CMA) mission is "to promote the science and art of medicine, the care and well-being of patients, the protection of the public health and the betterment of the medical profession" and the organization has a similar core objective of advancing public health.

CMA has long recognized that tobacco use is a costly habit that often leads to illness and poor health; in 1963, CMA was the first among state medical societies to create policy to inform people about the harmful effects of cigarette smoking. Effective policy solutions that prevent and reduce tobacco use and the negative health impacts of these products should be guided by the current literature and research that indicates these interventions are necessary – namely, that there is a preponderance of evidence that highlights emerging issues and which can be used to help guide tobacco control efforts.

This report presents the evidence and research on the impact of flavored and mentholated tobacco products on public health, particularly among priority populations. Priority populations are groups that have higher rates of tobacco use than the general population, experience greater secondhand smoke exposure at work and at home, are disproportionately targeted by the tobacco industry, and have higher rates of tobacco-related disease compared to the general population.¹

Specifically, this report addresses:

- The evidence linking flavored and mentholated tobacco products with initiation of and sustained tobacco use by youth and other priority populations, and the resulting negative health effects.

While great strides have been made in reducing tobacco use in California, tobacco use is still the leading preventable cause of premature death and disability in the state and nationally – more than 440,000 people die prematurely from tobacco-related disease.² Evidence indicates that lifelong smoking and other tobacco use begins early in life; in California, 63% of smokers start by the age of 18, and 97% start by age 26.³

Although the overall prevalence of youth smoking is declining in California, the introduction of novel tobacco products that are offered in a variety of flavors designed to appeal to children, such as bubblegum, grape, and chocolate, may present new public health threats to adolescents and young adults. Other evidence indicates that flavor additives, such as menthol, may impose additional threats, particularly among certain priority population groups that have relatively higher use rates.

The use of flavor and menthol additives in tobacco products has long been a popular industry strategy to mask the natural harshness and taste of tobacco, making initiation easier for younger and beginner smokers.⁴ Like all tobacco products, flavored and mentholated tobacco products have serious health risks and are not considered safe by the United States (U.S.) Food and Drug Administration (FDA).⁵

In 2009, the Family Smoking Prevention and Tobacco Control Act (FSPTCA) was signed into federal law, making it illegal to manufacture cigarettes that contained “characterizing flavors” other than that of tobacco. This included flavors like strawberry, grape, orange, clove, chocolate, and cinnamon. The FDA concluded that flavored cigarettes are a gateway for many children and young adults to become regular smokers.⁶

Notably, the federal ban on flavored cigarettes did not apply to mentholated cigarettes or other flavored tobacco products.⁷

There are several types of flavored tobacco products on the market, including cigars, smokeless tobacco, hookah, liquid nicotine solutions (used in electronic smoking devices), and menthol cigarettes. These products come in a variety of candy and fruit flavors such as chocolate, watermelon, grape, cherry, apple, and wintergreen. This section describes each type of tobacco product and consumption patterns, as well as health impacts associated with use of these products.

Cigars

- Cigars are sold in a variety of candy, fruit, and alcohol- like flavors.
- Cigars are the second most common form of tobacco used by youth, and flavored cigars represent more than half of the cigar market.
- Cigar smoke contains many of the same carcinogens as cigarette smoke, and may even be more toxic.
- Cigars pose significant morbidity and mortality risks to users.



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Cigar Products and Market Share

Cigars tend to vary in terms of size and the quantity of tobacco used in their products. There are three types of cigar sizes sold in the United States:

- **Large or Premium Cigars:** Contain between 5 and 20 grams of tobacco, which can equate to a pack of cigarettes.
- **Little Cigars:** Very similar to cigarettes and sold in the same size (e.g., contain 1 gram of tobacco), shape and packaging (20 little cigars in a package).
- **Cigarillos:** Contain about 3 grams of tobacco, usually larger than little cigars and cigarettes.⁸

In 2014, about 13 billion cigars were sold in the United States, including 12.4 billion large cigars and cigarillos and 0.6 billion little cigars.⁹ While cigarette consumption has declined from 2000 to 2014, total consumption of cigars increased by 122% over this same period,¹⁰ with flavored cigars representing more than half of the U.S. cigar market.¹¹ Following the Family Smoking Prevention and Tobacco Control Act of 2009, research indicates that cigar manufacturers and the tobacco industry manipulated flavored cigarettes to become flavored cigars in order to circumvent the ban on flavored cigarettes.^{12,13} Cigars are also commonly sold as single products, making them an affordable alternative to cigarettes which are taxed at higher rates.¹⁴

Swisher International Inc.'s Swisher Sweets and Little products represent the most popular cigar brands on the market. They come in a variety of flavors, including chocolate, strawberry, ice cream, peach, and grape. Black & Mild brand cigars, owned by Altria (parent company of Philip Morris USA), also maintain a significant market share and sell flavors like apple, wine, and cream.¹⁶

Cigar Use by Certain Groups

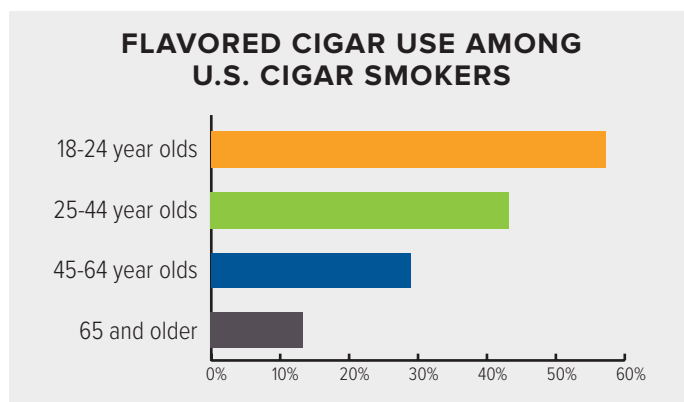
Cigars are the second most common form of tobacco used by high school students.¹⁷ That number increases among first-time tobacco users aged 12 and older, with nearly 2.7 million smoking cigars, in comparison to 2.3 million smoking cigarettes.¹⁸

A recent study found that more than 87% of adolescents who used cigarillos in the past 30 days used flavored cigarillos.¹⁹ When asked, 73.8% of current youth cigar smokers said they smoked cigars “because they come in flavors I like.”²⁰ More than two fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes.²¹

In fact, a recent study found that flavored tobacco products, such as sweet-flavored cigars, are being engineered with the same flavor chemicals used in popular candy and drink products like LifeSavers and Jolly Ranchers, providing a “familiar, chemical-specific flavor cue” to the user.¹⁵

When asked, 73.8% of current youth cigar smokers said they smoked cigars “because they come in flavors I like.”

Research indicates that use of flavored cigars decreases with age: an analysis of data from the National Adult Tobacco Survey show that flavored cigar use among cigar smokers was 57.1% for 18-24 year olds, 43.2% for 25-44 year olds, 28.9% for 45-64 year olds, and 13.4% for those 65 and older.²² In addition, youth, young adults, females, African-Americans, cigarette smokers, and daily cigar smokers are significantly more likely to report smoking a usual cigar brand that is flavored, with preference for a usual brand that produces flavored cigars decreasing significantly with age.²³



Source: Findings from the 2009–2010 National Adult Tobacco Survey. Nicotine & Tobacco Research. 2013;15:608–14.

Health Impacts of Cigar Use

Item 5.

Cigar smoke contains many of the same carcinogens as cigarette smoke, and may even be more toxic.²⁴ As a result of the curing and fermentation process involved in producing cigar tobacco, higher concentrations of cancer-causing nitrosamines are present and released upon combustion. Additionally, cigars have more tar for every gram of tobacco smoked in comparison to cigarettes, and higher concentrations of toxins due to less-porous cigar wrappers.²⁵

Cigars pose significant morbidity and mortality risks to users. While lung cancer risk is less strongly associated with cigar smoking than with cigarette smoking, the health risks from cigar smoking increase depending upon level of exposure as measured by cigars smoked per day, inhalation level, and past smoking history.^{26,27}

Cigar smokers have higher rates of lung cancer, heart disease, and lung disease as compared to nonsmokers.²⁸ Regular cigar smoking is associated with increased risk for lung, larynx, oral cavity, and esophageal cancer, and has been linked to gum disease and tooth loss.^{29,30} Cigar smokers have also tested for higher levels of toxic and carcinogenic substances like cotinine, 4-(methylnitrosamino)-1-(3-pyridyl)-1-butanol (NNAL), which is a tobacco-specific nitrosamine (TSNA) that is a known lung carcinogen, and lead concentrations, as compared to nontobacco users.³¹

Daily cigar use and deep inhalation has also been linked to elevated risk of heart disease and chronic obstructive pulmonary disease.³² Cigar smokers also increase their mortality risk for an aortic aneurysm.³³ Regular cigar smoking was responsible for approximately 9,000 premature deaths and more than 140,000 years of potential life lost among U.S. adults aged 35 years or older in 2010.³⁴

There is a misperception that cigars are not harmful because cigar smoke is not inhaled, however, studies indicate that some cigar smokers do inhale, especially current and former cigarette smokers.³⁵ Inhalation of cigar smoke into the lungs and bloodstream causes smoke particles to deposit into the lungs, stomach, and digestive tract and increases the risk for cancer.³⁶⁻³⁸ Other research indicates that some youth and adult users of little cigars fully inhale the cigar smoke, similar to cigarettes, often indicating that inhaling was necessary to get a “buzz” from little cigars.^{39,40} Regardless of the level of inhalation, all cigar smokers expose their lips, tongue, and throat to smoke and cancer-causing chemicals.⁴¹

Smokeless Tobacco

- Smokeless tobacco is sold in various flavors and forms, with newer products that do not require spitting.
- Moist snuff is the most popular smokeless tobacco product and flavors account for the largest portion of moist snuff sales.
- Smokeless tobacco users tend to be younger and evidence shows the industry has manipulated the nicotine content to attract and retain users.
- Smokeless tobacco contains at least 28 cancer-causing chemicals.

Smokeless Tobacco Products and Market Share

Smokeless tobacco contains nicotine and is addictive.⁴² It is not burned, and it may be sucked, chewed, spit, or swallowed. It can come in a variety of flavors such as winter-green, citrus blend, cinnamon, berry, vanilla, and apple.^{43,44}

There are three main types of smokeless tobacco:

- **Chewing tobacco:** includes cured tobacco that comes in various forms such as loose leaf, plug, or twist tobacco, and is available in multiple flavors. Users place chewing tobacco between the cheek and gums.
- **Snuff:** Oral snuff is a finely cut, processed tobacco which the user places between the cheek and gums. Snuff may be moist, dry, or packaged in tea-like pouches or packets (i.e., snus). Dry snuff may be sniffed or inhaled into the nose, while snus is a newer form of snuff that does not require spitting.
- **Dissolvables:** Finely ground tobacco and flavorings, shaped into tablets, strips, or other forms, that the user ingests orally. These products do not require spitting.

In 2011, smokeless tobacco sales totaled approximately 124.6 million pounds in the U.S., increasing from the 122.6 million pounds sold in 2010. Moist snuff is the most popular smokeless tobacco product with over 80% of the market share, followed by loose leaf at over 17% of the market.⁴⁵ Three companies account for nearly 90% of U.S. sales of smokeless tobacco—U.S. Smokeless Tobacco Company (owned by Altria, popular premium brands like Skoal and Copenhagen), American Snuff, and Swedish Match.⁴⁶

Between 2005 and 2011, sales of flavored moist snuff across all companies increased by 72%; and in 2011, flavored products accounted for more than half (56.1%) of all moist

snuff sales.⁴⁷ Internal documents for the U.S. Smokeless Tobacco Company indicate that flavors were intentionally used to “graduate” new users from the “milder-tasting, more flavored” products to those with a “more full-bodied, less flavored ... more concentrated tobacco taste.”⁴⁸

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Smokeless Tobacco Use by Certain Groups

The current demographics of smokeless tobacco users have changed as tobacco manufacturers introduce novel smokeless tobacco products with flavorings and new delivery methods appealing to a broader consumer base.⁴⁹ In 1970, men aged 65 and older were about six times more likely to use smokeless tobacco regularly as compared to men aged 18 to 24. By 1991, young men were 50% more likely than the oldest men to be regular users of smokeless tobacco.^{50,51}

In a 2013 survey of U.S. high school students, 14.7% of high-school boys and 8.8% of all high-school students reported current use of smokeless tobacco products.⁵² Furthermore, each year about 535,000 youth ages 12-17 report using smokeless tobacco for the first time.⁵³ More broadly, the number of persons aged 12 or older who used smokeless tobacco for the first time within the past year was 1.1 million in 2013.⁵⁴ Smokeless tobacco use among females has historically been low. Among males, smokeless use decreased between 1986 and 2000, but has been increasing since 2000.⁵⁵

There is evidence that users who begin with low-nicotine “starter” products are more likely to subsequently “graduate” to products with higher nicotine content,⁵⁶ and that use of starter products reinforces use of other tobacco products, including cigarettes.^{57,58} Industry marketing practices and introduction of novel products have encouraged cigarette smokers to use smokeless tobacco as an alternative in locations where smoking is not permitted.^{59,60} Cigarette smokers may also consider smokeless tobacco to be a cessation or harm reduction strategy to reduce use of combustible tobacco products.⁶¹ Studies have found that smokers who no longer use combustible tobacco may switch to smokeless tobacco as a substitute to smoking or may engage in dual use by using both products concurrently.⁶²⁻⁶⁴ Smokeless tobacco is not a safe alternative to combustible tobacco, and there is no conclusive evidence that shows that switching to smokeless tobacco is an effective long-term smoking cessation strategy.^{65,66}

Health Impacts of Smokeless Tobacco Use

Smokeless tobacco contains at least 28 cancer-causing chemicals⁶⁷ and has been shown to cause gum disease, tooth decay and cancers of the oral cavity, esophagus and pancreas.⁶⁸⁻⁷⁰ The health risks associated with smokeless tobacco use can vary depending upon the product characteristics, manner and frequency of use, as well as interactions with dual use of other tobacco products.⁷¹

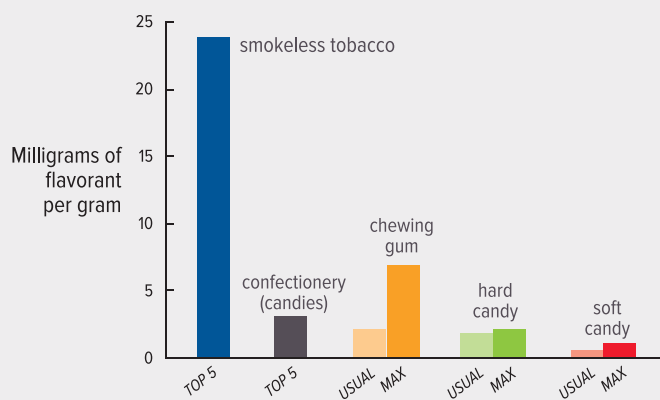
The use of flavorings in some oral smokeless tobacco products presents another level of exposure as the flavorings are ingested along with the tobacco.⁷² A measurement of the mint and wintergreen contents found in popular moist snuff products indicated that these products contain far more of these flavorings (i.e., methyl salicylate) than found in hard candies – a typical smokeless tobacco user could ingest up to 12 times the acceptable daily intake level of methyl salicylate as established by a scientific expert committee on food additives.⁷³ Smokeless tobacco products may also contain additives that have been prohibited for use in food; coumarin, for example, is an additive that has been banned in foods due to its liver toxicity, that is also found in Camel Mellow Orbs, a dissolvable tobacco product.⁷⁴

Smokeless tobacco products differ considerably in their concentrations of nicotine, volatile and nonvolatile nitro-samines including TSNAs, the most abundant strong carcinogens in smokeless tobacco products, as well as toxic metals and other compounds.⁷⁵⁻⁷⁷ All smokeless tobacco products contain nicotine and almost all contain TSNAs.⁷⁸ A comparison of studies found that biomarkers indicating exposure to carcinogens in the urine of users of moist snuff varied by brand used and, for some brands, were higher than levels seen in Marlboro cigarette smokers.⁷⁹

Smokeless tobacco use is strongly associated with the prevalence of oral lesions on the cheeks, gums, and/or tongue, such as leukoplakia.^{80,81} Lesions typically occur at the site in the mouth of smokeless tobacco application and indicate a high risk of cancers arising from leukoplakia and

METHYL SALICYLATE IN “WINTERGREEN” TYPES OF SMOKELESS TOBACCO, CANDY, AND GUM

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Source: Chen C, et al. (2010)

oral submucous fibrosis.^{82,83} Research suggests that more than half of daily smokeless tobacco users had lesions or sores in the mouth,⁸⁴ and lesions are more severe in people who begin use at an earlier age, use for more hours per day, use greater dosages, or use on more days per month.⁸⁵ Other oral conditions associated with smokeless tobacco use include gingival recession, which can be observed within one year of smokeless tobacco use, dental decay, and caries.⁸⁶ A study found chewing tobacco users were four times more likely than non-users to have decayed dental root surfaces.⁸⁷

Other health impacts from smokeless tobacco use include an association with increased risk of fatal ischemic heart disease and stroke.⁸⁸⁻⁹⁰ Use during pregnancy heightens risk for early delivery and stillbirth, and can affect how a baby's brain develops before birth.^{91,92} Research shows that users who engage in dual use of smokeless tobacco and cigarettes may have greater levels of toxicants and may prolong the duration of smoking than those who use only one tobacco product, potentially posing greater health risks.^{93,94}

Hookah Tobacco

- Hookah has a wide range of flavors and flavor mixes available for purchase.
- Hookah smoking is a social activity and its popularity has increased among youth and college students.
- Flavored hookah tobacco is the preferred tobacco for use in water pipes.
- Hookah is not safer than cigarettes and has many of the same health risks as cigarette smoke.

Hookah Products and Market Share

Hookah—also called shisha, narghile, and goza—refers to water pipes that are used to smoke tobacco by indirectly heating it with burning embers or charcoal.⁹⁵ The tobacco comes in a range of flavors, such as apple, mint, cherry, chocolate, cardamom, watermelon, and cappuccino,⁹⁶ and some manufacturers even mix flavors to produce combinations such as strawberry-peach or raspberry-orange.⁹⁷ Several Middle Eastern companies manufacture and import the tobacco, including Al Fakher, Al Waha, Nakhla, Romman, and Fumari, and there are also U.S. companies that manufacture and distribute their own brands of tobacco for water pipe smoking.⁹⁸

Hookah Use by Certain Groups

Hookah smoking is often a social activity and two or more people may share the same waterpipe.⁹⁹ Hookah use began centuries ago in ancient Persia and India,¹⁰⁰ but hookah cafes have gained popularity nationwide in the U.S.¹⁰¹ and use by American youth^{102,103} and college students is increasing.¹⁰⁴⁻¹⁰⁸ One study found that hookah use in California was much higher among young adults (24.5% among men, 10% among women) than it was among all adults (11.2% among men, 2.8% among women) in the U.S.¹⁰⁹ A 2014 study found that teens that 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.¹¹⁰ In addition, an analysis of the 2012–2013 National Adult Tobacco Survey found that among young adults who had never established cigarette smoking, two of five hookah smokers reported being susceptible to smoking cigarettes.¹¹¹

The World Health Organization (WHO) found that the introduction of sweetened flavored water pipe tobacco *maassel*, is one of the contributing factors that has caused hookah's explosive growth.¹¹² Prior to the introduction of *maassel*, most water pipe smokers used some type of raw tobacco that produced a strong, harsh smoke, unlike the smoother, aromatic smoke produced from *maassel*.¹¹³ Research indicates that *maassel* is the preferred tobacco for use in water pipes, especially among young smokers.¹¹⁴ One study found that 88.7% of 12-17 year olds who had ever smoked hookah used flavored hookah the first time they tried the product, and 89% of current hookah smokers used a flavored product in the last month.¹¹⁵ Similarly, the 2014 National Youth Tobacco Survey found that 60.6% of middle and high school hookah smokers had used flavored hookah in the past month.¹¹⁶

Health Impacts of Hookah Use

Many young adults falsely believe that hookah smoking is safer than cigarette smoking,¹¹⁷ however, hookah poses many of the same health risks as cigarette smoking. 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.¹¹⁸ During an hour-long hookah smoking session the average user will take 200 puffs, while smoking an average cigarette involves only about 20 puffs.^{119,120} In fact, smoking hookah for 45 to 60 minutes can be equivalent to smoking 100 or more cigarettes.¹²¹

The charcoal that is used to heat the tobacco in a hookah can increase health risks for smokers, as the smoke contains toxicants emitted from both the charcoal and the tobacco product, including flavorings.¹²² Hookah smoke has high levels of carbon monoxide, metals, and cancer-causing chemicals.¹²³ As a result, hookah use can cause negative health effects on the respiratory system, cardiovascular system, oral cavity and teeth, and long-term use has been linked to high incidences of chronic obstructive pulmonary disease and periodontal disease.^{124,125} Hookah smokers may also be at risk for some of the same diseases as cigarette smokers, including oral cancer, lung cancer, stomach cancer, and esophageal cancer.^{126,127}

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Liquid Nicotine Solution

- Liquid nicotine solution is a broad term that encompasses “e-juice” or “e-liquid” which is often used in electronic nicotine delivery devices, or electronic cigarettes.
- Liquid nicotine solution is available in a plethora of candy and fruit-flavors, many of which use popular brand names and logos that appeal to youth.
- Youth uptake of electronic cigarettes has vastly increased over the last several years.
- While there is insufficient research on the long-term health effects of liquid nicotine solution, evidence shows that toxic additives are often included in the aerosol spray.



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Liquid Nicotine Products and Market Share

Liquid nicotine solution, also called “e-juice” or “e-liquid,” is used in electronic smoking devices such as e-cigarettes and vaporizers. The term “electronic cigarette” or “e-cigarette” is a common term that can refer to a wide variety of products that use liquid nicotine solution, which is a derivative of tobacco. Unlike combustible tobacco products, e-cigarettes are battery-operated devices that heat liquid nicotine solution to form an inhalable aerosol.¹²⁸ Some e-cigarettes are reusable and users can replace or refill the liquid nicotine solution, while others are disposable and cannot be refilled.¹²⁹ Other more advanced devices, called modulators or “mods,” can be assembled with separate component parts and accessories, which permits greater variation in the battery power, style, and size.¹³⁰

Sales of electronic cigarettes and supplies have experienced triple-digit growth over the past five years, climbing to over \$3.5 billion with market analyses projecting use of e-cigarettes and vaporizers to overtake combustible cigarettes in ten years.¹³¹ Almost 50% of the

electronic cigarette market is owned by the largest companies, and that market share is expected to reach 80% in 2021.¹³² However, sales have decelerated over the past year due to customer dissatisfaction, safety concerns, and increased state regulation.¹³³

As a result of this growth, there are now over 460 brands of e-cigarettes and more than 7,700 unique e-cigarette flavors available for purchase online.¹³⁴ This includes a wide range of candy and fruit-flavors that are not permitted in cigarettes, many of which use well-known brand name candy and cereal products, such as Wrigley’s, Atomic Fireball, Tutti Frutti, and Cap N’ Crunch, which are considered to be appealing to children.¹³⁵

Liquid Nicotine Use by Certain Groups

Data trends depict increasing use of e-cigarettes by youth. From 2013 to 2014, a Centers for Disease Control and Prevention (CDC) survey found that youth use of e-cigarettes had tripled and now exceeds youth use of traditional cigarettes. Current e-cigarette use among high school students increased from 4.5% to 13.4%, amounting to 2 million high school students and 450,000 middle school students who currently use e-cigarettes.¹³⁶

A 2015 Monitoring the Future study found that 40% of youth who used e-cigarettes did so because “they tasted good” compared to only 10% who use them to quit smoking traditional cigarettes.¹³⁷

Other studies found similar increases in youth uptake of e-cigarettes,¹³⁸⁻¹⁴⁰ and preliminary California specific data indicates e-cigarette youth use to be at much higher rates than traditional cigarettes.¹⁴¹

A gateway effect has been observed for youth users: a recent longitudinal study of e-cigarette use found that adolescents who use e-cigarettes are more likely to start smoking cigarettes. Among nonsmoking students who used e-cigarettes, 20% indicated they had smoked their first cigarette a year later. Among nonsmokers who had not used e-cigarettes, only 6% had used cigarettes a year later.¹⁴² Similar findings were published in *The Journal of the American Medical Association (JAMA) Pediatrics* that indicates young people who smoke e-cigarettes are more likely to start smoking traditional cigarettes within a year

as compared to their peers who do not use e-cigarettes.¹⁴³ Using data from the 2012 National Youth Tobacco Survey, one study confirmed that e-cigarette users who had never smoked cigarettes and who had experimented with smoking had elevated intention to smoke cigarettes compared with their counterparts who had never used e-cigarettes.¹⁴⁴ Additionally, a new analysis of a nationally representative sample of adolescents supports these findings: use of electronic nicotine delivery systems (such as e-cigarettes) was associated with initiation of cigarette smoking in the last year.¹⁴⁵

Health Impacts of Liquid Nicotine Use

There is insufficient research regarding the long-term health effects of using e-cigarettes.¹⁴⁶ As e-cigarettes have largely been unregulated, they have been heavily marketed as a safer alternative to conventional cigarettes. However, the liquid nicotine solution used in e-cigarettes frequently contains nicotine, as well as propylene glycol, glycerin, flavorings, and other toxic additives.¹⁴⁷ Research has found chemicals and toxins contained in the aerosol; such as nicotine, formaldehyde, lead, nickel, and acetaldehyde, all of which are found on California's Proposition 65 list of chemicals known to cause cancer, birth defects, or other reproductive harm.¹⁴⁸ It is posited that nicotine exposure during periods of developmental vulnerability has multiple adverse health consequences, including impaired fetal brain and lung development, and altered development of cerebral cortex and hippocampus in adolescents.¹⁴⁹

Furthermore, certain chemicals used to flavor liquid nicotine, like diacetyl, 2,3-pentanedione, and acetoin, are present in many e-liquids at levels which are unsafe for inhalation.¹⁵⁰ While diacetyl has been approved for ingestion in human food, it has not been similarly evaluated and approved for use in tobacco products, which result in exposures other than ingestion (e.g., inhalation).¹⁵¹ A recent study found diacetyl in 75% of flavored e-cigarette liquids and refill liquids that were tested, and at least one of the three

flavoring chemicals (i.e., diacetyl, 2,3-pentanedione, and acetoin) was detected in 92% of the tested e-cigarette and liquids.¹⁵² Diacetyl, when inhaled, is associated with the development of the severe lung condition called bronchiolitis obliterans, also known as "popcorn lung," which causes an irreversible loss of pulmonary function and damage to cell lining and airways.¹⁵³ Still another study has found that users of flavored e-cigarettes are likely inhaling a chemical called benzaldehyde, a widely used flavoring agent found in foods, as well as medicines like cough syrup, that when inhaled can irritate the airways.¹⁵⁴

In addition, the liquid nicotine solution contains 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 30-60 mg in an adult and 10 mg in a child. The toxicity of a 60 mg dose of liquid nicotine is similar to or even higher than that of cyanide.¹⁵⁵ Accidental exposure to nicotine, particularly by children aged five and younger, has led to significant increases in calls to poison control centers in California and nationally.¹⁵⁶

Although there are claims that e-cigarettes are an effective smoking cessation tool, there is not enough evidence to indicate that e-cigarettes will help smokers quit or reduce the number of cigarettes smoked.^{157,158} The U.S. Preventive Services Task Force, which makes recommendations about the effectiveness of specific preventive care services after a thorough assessment of the science, recently concluded that "the current evidence is insufficient to recommend electronic nicotine delivery systems for tobacco cessation..."¹⁵⁹ In fact, recent evidence points to potential signs of dual use instead of cessation: instead of using e-cigarettes as a cessation tool, some users are using e-cigarettes in indoor environments where use of traditional cigarettes may be prohibited, but continuing to smoke traditional cigarettes outdoors.¹⁶⁰⁻¹⁶³

Menthol Cigarettes

- Menthol is an anesthetic additive used in cigarettes that imparts a cooling effect and minty taste, and reduces the harsh taste of cigarette smoke.
- Menthol cigarettes represent about one third of the U.S. cigarette market.
- Menthol users tend to be younger, female and members of ethnic minorities, and the FDA has concluded that menthol cigarettes are “starter” products.
- Menthol cigarettes lead to greater addiction and can inhibit cessation.

Menthol Cigarette Products and Market Share

Menthol is an anesthetic additive that can be natural or synthetically produced, and is commonly used as a minty flavoring in cigarettes. At low doses, menthol has a cooling, sensory effect that reduces the perceived harshness of tobacco and increases ease of smoking.¹⁶⁴ At high doses, menthol can cause irritation and pain via effects on certain receptors located in the nose, mouth and airways. Menthol is present in most cigarettes in the U.S., both as a characterizing flavor (higher levels) and for other taste reasons (lower levels).^{165,166} Menthol is also an active ingredient in many medicinal products, such as cough drops, and it is regulated as a drug by the FDA. The use of menthol in tobacco products is not regulated by the FDA, and it may be found in cigarettes, cigars, smokeless tobacco, and other tobacco products.¹⁶⁷

Menthol was first used as a cigarette additive in 1925, with sales totaling only 3% of the overall U.S. cigarette market prior to 1956.¹⁶⁸ Once the tobacco industry realized menthol made cigarettes more palatable upon initiation and could be used to retain smokers, marketing strategies were refined to target youth and certain groups (See Priority Populations Section).^{169,170}

There are approximately 19 million Americans who smoke menthol cigarettes, including 1.1 million adolescents, and sales of these products comprise between 28% and 34% of the U.S. cigarette market.^{171,172} Common menthol cigarette brands include Kool, Newport, and Salem, although the cigarette market is highly consolidated among three companies: Altria (parent company of Phillip Morris, Marlboro products), Reynolds American and Lorillard.¹⁷³

Lorillard’s brand of mentholated cigarettes, Newport, historically outpaced all other menthol brands and its main product line. In 2014, Reynolds acquired Lorillard in a merger allegedly designed to give Reynolds access to the Newport product.¹⁷⁴

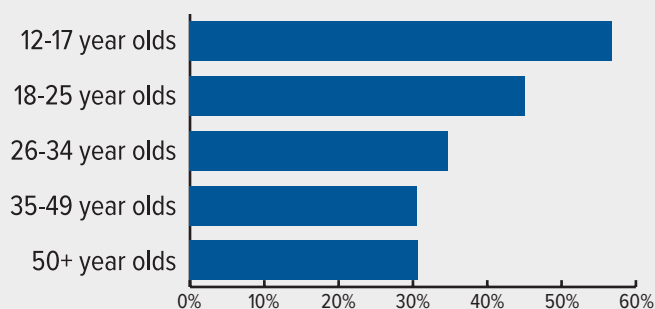
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Menthol Cigarettes Use by Certain Groups

Analyses of internal tobacco industry documents reveal that the tobacco industry knowingly manipulated the menthol content in cigarettes to account for sensory preferences among younger and more experienced smokers,¹⁷⁵ understanding that the amount of menthol in a cigarette changes how the cigarette is smoked and how pleasurable it is to the smoker.¹⁷⁶ Menthol enhances the sensory experience or “throat grab” of the smoke, and through desensitization, reduces the irritating effect of nicotine, leading to a positive association by novice smokers.^{177,178}

Research indicates that menthol cigarettes are a “starter” product for youth and use of menthol is more likely among those who are recent initiates.¹⁷⁹⁻¹⁸³ Using data from the National Surveys on Drug Use and Health, one study found that menthol cigarette use is more common among 12–17 year olds (56.7%) and 18–25 year olds (45.0%) than among 26–34 year olds, 35–49 year olds, and 50+ year olds (range of 30.5% to 34.7%). The study also found that while adolescent and young adult use of non-menthol cigarettes has decreased from 2004–2010, menthol smoking rates have remained constant (adolescents) and increased (young adults) over this same period.¹⁸⁴

MENTHOL CIGARETTE USE AMONG PAST 30-DAY U.S. SMOKERS BY AGE



Source: Giovino GA, et al. (2015)

Menthol users are associated with being younger, female, and of non-Caucasian race/ethnicity, and use is especially high among minority youth. A review of three national data sets determined that more than 80% of adolescent African American smokers and more than half of adolescent Latino smokers use menthol cigarettes. Menthol cigarettes are also used by more than half of Asian American middle-school smokers.¹⁸⁵ In addition, an analysis on the 2008 and 2009 National Survey on Drug Use and Health found that an elevated prevalence of menthol use was found among persons with severe psychological distress,¹⁸⁶ while another study indicated that menthol is disproportionately used among young adult tobacco users with mental health problems.¹⁸⁷

Strong evidence also suggests that use of mentholated cigarettes during childhood and early adulthood increases nicotine addiction and dependence,¹⁸⁸⁻¹⁹⁰ with the FDA surmising that youth appeared to be particularly vulnerable to the effects of menthol cigarette smoking.¹⁹¹ Further, evidence indicates that menthol smokers in general, and African American smokers in particular, are less likely to quit successfully than non-menthol cigarette users.¹⁹²⁻¹⁹⁵

In 2011, after an extensive survey of the literature and research, the FDA released a report concluding that menthol cigarettes are “starter” products and increase smoking initiation among youth and young adults, lead to greater addiction, and can inhibit quitting smoking.¹⁹⁶ The FDA concluded that the removal of menthol cigarettes from the marketplace would greatly benefit public health.

Health Impacts of Menthol Cigarettes

Tobacco industry documents and empirical studies suggest that consumers, particularly younger users, tend to perceive menthol cigarettes as less hazardous than non-menthol cigarettes.¹⁹⁷ However, menthol cigarettes are not safer than non-menthol cigarettes and carry many of the same health risks: smokers are more likely than nonsmokers to develop heart disease, stroke, lung cancer and other respiratory diseases.¹⁹⁸

Due to the anesthetic effect of mentholated cigarettes, evidence suggests that they may facilitate deeper and more prolonged inhalation of toxic cigarette smoke.¹⁹⁹ Additionally, by reducing airway pain and irritation, continuous menthol smoking can mask the early warning symptoms of smoking-induced respiratory problems.²⁰⁰ Still other evidence has associated menthol with inhibiting the metabolism of nicotine in the body, and smokers of menthol cigarettes have been found with higher levels of cotinine and carbon monoxide in the bloodstream as compared to non-menthol smokers.^{201,202}

Menthol in high concentrations may also inhibit the detoxification of tobacco-specific carcinogens (NNAL), which could increase the risk of cancer,²⁰³ although the FDA in its 2013 report did not find enough evidence to support this claim. Lastly, a study of current smokers using data from the 2001-2008 U.S. National Health and Nutrition Examination Surveys found significantly increased odds of stroke for smokers of mentholated cigarettes compared with non-mentholated cigarette smokers.²⁰⁴

Priority populations are groups that have higher rates of tobacco use than the general population, experience greater secondhand smoke exposure at work and at home, are disproportionately targeted by the tobacco industry, and have higher rates of tobacco-related disease compared to the general population.²⁰⁵ This section describes the evidence which indicates particular priority populations (i.e., youth, racial/ethnic minorities, and other targeted groups) are more likely to initiate and use flavored and mentholated tobacco products.

Adolescents (12-17) and Young Adults (18-26)

A multitude of research indicates that flavored products appeal to youth and young adults leading to increased use for this population. Despite prevalence rates for cigarette use trending downward for youth, research shows that more youth are using other flavored tobacco products. A national study found that 80.8% of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product, and that 79.8% of current tobacco users had used a flavored tobacco product in the past month.²⁰⁶ Additionally, an examination of young adult tobacco users (18-34 year olds) found that 18.5% currently use a flavored tobacco product, with younger age being a predictor of flavored tobacco product use: young adults aged 18-24 year olds had an 89% increased odds of using a flavored tobacco product compared to those aged 25-34 year olds.²⁰⁷

Menthol cigarettes carry similar results. Among cigarette smokers, menthol cigarette use was more common among 12-17 year olds (56.7%) and 18-25 year olds (45%) than among 26-34 year olds, 35-49 year olds, and 50+ year olds (range of 30.5% - 34.7%).²⁰⁸ In fact, adolescents smoke menthol cigarettes at a higher rate than any other age group.²⁰⁹

Flavors Make Using Tobacco More Enticing and Harder to Quit

Flavorings and menthol additives mask the naturally harsh taste of tobacco, making it easier for youth to initiate and sustain tobacco use.^{210,211} A 2014 review of internal tobacco industry documents indicate that menthol and candy-like

flavors in little cigars and cigarillos were used to increase product appeal to beginning smokers by masking the heavy cigar taste, reducing throat irritation, and making the cigar smoke easier to inhale.²¹²

The majority of youth ever-users reported that the first product they had used was flavored, including 88.7% of ever hookah users, 81.0% of ever e-cigarette users, 65.4% of ever users of any cigar type, and 50.1% of ever cigarette smokers. Youth consistently reported product flavoring as a reason for use across all product types, including e-cigarettes (81.5%), hookahs (78.9%), cigars (73.8%), smokeless tobacco (69.3%), and snus pouches (67.2%).²¹³

Studies indicate 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.²¹⁴ Further, both the FDA and the U.S. Surgeon General have warned that flavored tobacco products help new users establish habits that can lead to long-term addiction.^{215,216} A recent study of middle and high school students supports this: among cigar smokers, prevalence of no-intention-to-quit tobacco use was higher among flavored-little-cigar users (59.7%) than nonusers (49.3%).²¹⁷ Additionally, youth who initiate smoking with menthol cigarettes are more likely to become regular, addicted smokers and to show higher measures of dependence than youth who initiate with non-menthol cigarettes.²¹⁸ Furthermore, a nationally representative sample of U.S. youth tobacco users found that dual use (i.e., use of two tobacco product categories) was the most prevalent pattern (30.5%) detected among these users.²¹⁹

Flavored and Mentholated Tobacco Products are Heavily Marketed with Sweet Flavors, Colorful Packaging, and Brand Recognition

The U.S. Surgeon General concluded that, "... advertising and promotional activities by the tobacco companies cause the onset and continuation of smoking among adolescents and young adults."²²⁰ Tobacco industry documents containing information about tobacco companies' advertising, manufacturing, marketing, and research activities demonstrate a strategic focus on designing brand varieties with particular appeal to youth, such as mentholated, candy-flavored, and fruit-flavored brands.²²¹

For example, one internal industry memo described sweetened products as “... for younger people, beginner cigarette smokers, teenagers ... when you feel like a light smoke, want to be reminded of bubblegum.”²²²

Several flavored tobacco products share the same names, packaging and logos as popular candy brands like Jolly Rancher, Kool-Aid, and Life Savers.²²³ They are also engineered with the same flavoring agents as those used in popular kid-friendly candy and drink products such as Life Savers and Jolly Ranchers, providing a “familiar, chemical-specific flavor cue” to the user.²²⁴ Bright packaging and product placement at the register, near candy, and often at children’s eye-level, increases tobacco flavored products’ visibility to kids.²²⁵ As stated in an industry publication, “While different cigars target a variety of markets, all flavored tobacco products tend to appeal primarily to younger consumers.”²²⁶

The tobacco industry has aggressively used branding and advertising as a method to exploit particular youth populations and use of mentholated cigarettes. The vast majority of adolescents who smoke before the age of 18 use the three most heavily advertised brands. One of these heavily advertised brands, Newport, is the cigarette brand leader among African-American youth in the United States. Nearly eight out of every ten African American youth smokers smoke Newport cigarettes.²²⁷

Many Youth Believe Flavored or Mentholated Tobacco Products are Safer than Non-flavored Tobacco Products

Multiple studies of youth perception indicate that many younger users falsely believe that flavored or mentholated tobacco products are safer than non-flavored tobacco products. 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,²²⁸ and that mentholated cigarettes were less hazardous than

non-menthol cigarettes.²²⁹ This finding has been seen in other studies that show cigar smokers misperceive as being less addictive, more “natural,” and less harmful than cigarettes.²³⁰

Recent research indicates that some teens may be more likely to use e-cigarettes prior to using combustible tobacco because of beliefs that e-cigarettes are not harmful or addictive, as a result of youth targeted marketing and availability of e-cigarettes in flavors that are attractive to youths.²³¹ A longitudinal study of e-cigarette use found that adolescents who use e-cigarettes are more likely to start smoking cigarettes, and that risk for use was greater for students who had the impression that e-cigarettes were less dangerous than regular cigarettes.²³²

Racial and Ethnic Minorities

Menthol Cigarette Use is Higher Among African Americans, Especially Minority Youth

Significant disparities exist in the use of menthol flavored tobacco products by certain racial and ethnic minority communities. African American smokers are far more likely to smoke menthol cigarettes than smokers of other racial and ethnic groups, and this trend is pervasive across all categories, regardless of stratification by income, age, gender, region, education, etc. African American youth are especially impacted: more than 80% of all African American adolescents who smoke use menthol cigarettes—the highest usage among all minority groups.²³³

Although African Americans usually smoke fewer cigarettes and start smoking cigarettes at an older age, their smoking-related morbidity and mortality is significantly higher than white smokers.^{234,235} This disparity in tobacco-related morbidity and mortality among African Americans may partly result from the greater use of menthol cigarettes among African American smokers.²³⁶ A smoking simulation model predicted that a 10% quit rate among menthol smokers



would save thousands of lives, preventing more than 4,000 smoking-attributable deaths in the first ten years, and over 300,000 lives over the next 40 years. Approximately 100,000 of those lives saved would be African Americans.²³⁷

In addition, menthol cigarettes are used disproportionately by other minority youth groups. Data from the National Survey on Drug Use and Health (NSDUH) shows that among adolescent smokers aged 12-17 years, 51.5% of Asians, 47.0% of Hispanics, and 41.4% of Native Hawaiians/Pacific Islanders reported smoking a menthol brand in the past 30 days.²³⁸ Further, other research shows that during the last year of high school, one third of Asian American youth are smokers. Of these youth, 60% report that their usual brand of cigarettes is a menthol brand.²³⁹

Lower Cessation Rates Common Among Minority Menthol Smokers

Research indicates that menthol smoking can lead to lower rates of cessation outcomes, especially for non-white smokers.²⁴⁰ Generally, quitting menthol cigarettes is particularly difficult because menthol smokers have to overcome the dependency on nicotine as well as positive associations with menthol itself.²⁴¹ In addition, one study found that among African Americans and Hispanic/Latino current smokers, those who smoked mentholated cigarettes were more likely to be seriously considering quitting smoking in the next six months and to think that they would quit smoking successfully in the next six months compared to non-menthol smokers. However, the evidence did not support this outcome: African Americans and Hispanics/

Latinos who smoked mentholated cigarettes were to quit successfully for at least six months compared to those who smoked non-mentholated cigarettes.²⁴²

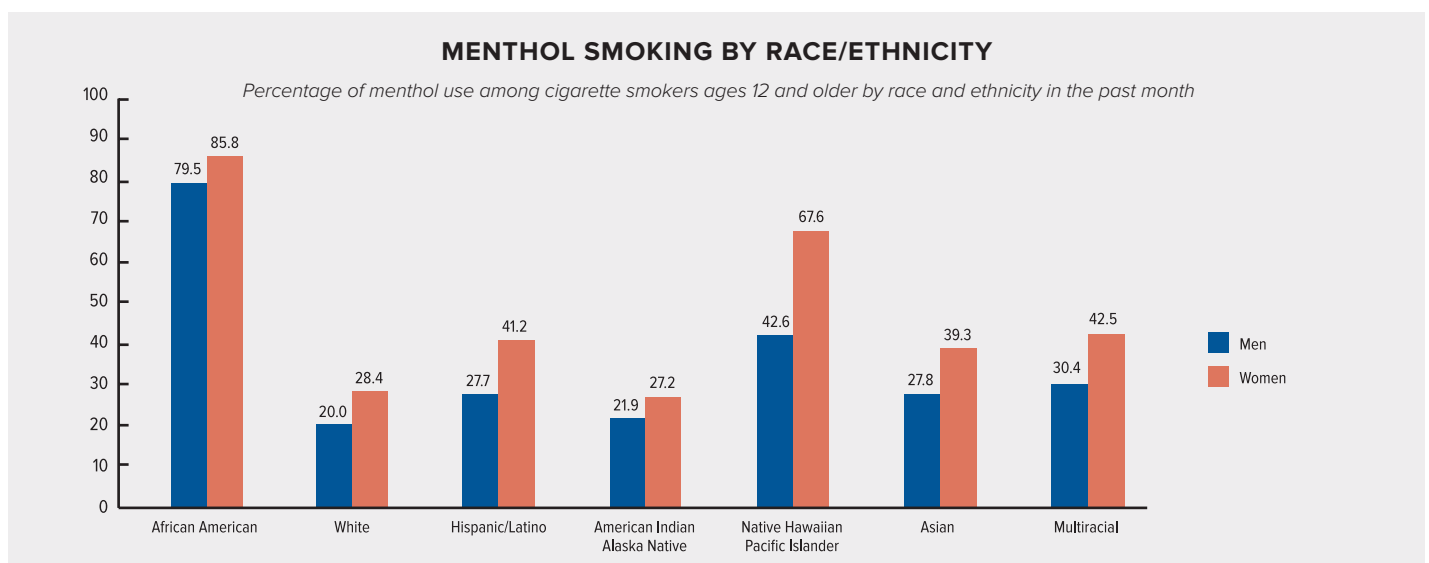
Item 5.

Another study found that despite smoking fewer cigarettes per day, African American and Hispanic/Latino menthol smokers were less likely to successfully quit as compared to non-menthol smokers within the same ethnic/racial group.²⁴³ This suggests that lower rates of cessation among these populations may be linked to higher rates of smoking mentholated cigarettes.

Tobacco Industry Has a Long History of Targeting Racial and Ethnic Minorities

Through strategic marketing and price discounting, the tobacco industry has targeted communities of color with mentholated tobacco products and flavored, cheap little cigars and cigarillos. Price discounting contributes to tobacco-related health disparities because vulnerable populations including youth, racial minorities, and persons with low incomes are more likely to purchase tobacco products through affordable discounts.^{244,245}

In particular, the tobacco industry has aggressively targeted African American populations through the use of multiple advertising mediums and branding to convey sociocultural messages around menthol products.²⁴⁶ Research indicates that African American neighborhoods have a disproportionate number of tobacco retailers,²⁴⁷ many which employ various point-of-sale strategies, such as price discounting, to encourage initiation and use in these communities.



Source: Substance Abuse and Mental Health Administration. The National Survey on Drug Use (NSDUH) and Health Report: Use of Menthol Cigarettes. November 2009.

One study found that a higher proportion of African American and young adult residents was associated with more exterior little cigar advertising and cheaper prices, with 95% of these stores selling little cigars in fruit, candy, and wine flavors.²⁴⁸

Other communities of color have similarly been targeted by industry. A review of tobacco industry documents suggests that RJ Reynolds, one of the leading cigarette manufacturers, developed a sophisticated surveillance system to track the market behavior of Hispanic/Latino smokers and understand their cultural values and attitudes. This information was translated into targeted marketing campaigns for the Winston and Camel brands, and in 2005, RJ Reynolds launched a music-themed marketing campaign to target African American and Hispanic/Latino youths.²⁴⁹ Empirical research examining menthol and non-menthol advertising also found a higher proportion of menthol advertisements out of all cigarette advertisements in Hispanic/Latino neighborhoods and magazines, than in non-Hispanic white neighborhoods and magazines.²⁵⁰

Since the mid-1980s, tobacco companies have targeted Asian Americans and Pacific Islanders in their marketing campaigns. The tobacco industry considered these groups to be a “potential gold mine” because of high rates of smoking in Asia and the Pacific, concentration in certain geographic regions, and the high proportion of Asian retailers.²⁵¹ A tobacco industry document review provided further evidence that Asian Americans and Hawaiian/Pacific Islanders were targeted in menthol marketing by cigarette companies.²⁵²

Lesbian, Gay, Bisexual, and Transgender (LGBT)

Similar to other priority populations, LGBT individuals have been aggressively targeted by tobacco industry through advertising and sponsorships on specific themes that resonate within the community: liberation, individualism, social success, and acceptance.²⁵³ For example, an ad for Camel Snus directed at LGBT audiences to “Take pride in your flavor,” and according to initial assessments of prevalence data, this industry messaging may be working.

Overall, LGBT individuals smoke cigarettes at a higher rate than the general population.^{254,255} In a national study conducted in 2009-2010, 71% of LGBT young adult smokers

(18-25) reported smoking menthol cigarettes.²⁵⁶ In **Item 5.** current menthol cigarette smoking was higher among adults (9.7%) than heterosexual/straight adults (4.2%), and LGBT women are more likely to smoke menthols cigarettes than straight women (42.9% vs.32.4%).²⁵⁷

LGBT individuals are also more likely to smoke flavored cigars (8.2%) than heterosexual/straight individuals (2.7%).²⁵⁸ Furthermore, 4.5% of LGBT adults use e-cigarettes, compared to 1.9% of heterosexuals.²⁵⁹ A Missouri study comparing heterosexual general population youth and LGBT youth found that these two groups differed significantly on many tobacco use related factors. General population youth initiated smoking at a younger age, and LGBT youth did not catch up in smoking initiation until age 15 or 16. However, LGBT youth (41.0%) soon surpassed heterosexual general population youth (11.2%) in initiation and proportion of current smokers and were more likely to use cigars/cigarillos and be poly-tobacco users.²⁶⁰ The latter finding is supported in a representative sample of U.S. high school youth that examined the concurrent use of multiple tobacco products: data indicated the prevalence of poly-tobacco use to be 21.7% among sexual minority youth compared with only 12.1% among heterosexual youth.²⁶¹

Women

Over 18 million adult women and 1.3 million girls in the U.S. currently smoke cigarettes.²⁶² Although men are more likely to smoke cigarettes than women, that is not the case with menthol cigarettes: women are 1.6 times more likely to smoke menthol cigarettes than men, and this pattern is seen across all racial/ethnic groups, except among American Indians/Alaskan Natives.²⁶³

Research suggests that among women smokers, menthol cigarette use is associated with higher tobacco dependence. More female menthol smokers, as compared to female non-menthol smokers, reported smoking their cigarette within five minutes of waking up in the morning and fewer quit attempts greater than 90 days.^{264,265}

A review of tobacco industry documents show extensive research was conducted on female smoking patterns, needs, and product preferences, including menthol brands. The tobacco industry has targeted some menthol brands to women, using women’s social and cosmetic concerns for cleanliness and freshness, and incorporated these themes in menthol cigarette product design and marketing.²⁶⁶

California and its tobacco control program have achieved great success in reducing the burden of tobacco use: over a 25 year period, cigarette consumption has decreased in California by 65%,²⁶⁷ with over 1 million lives saved²⁶⁸ and \$134 billion in averted health care costs.²⁶⁹ Despite this progress, tobacco use remains the chief risk factor for the leading causes of death in the state,²⁷⁰ and evidence shows that the tobacco industry continues to engage in efforts that entice a new generation of users. A foundation of this strategy is the use of candy and fruit flavors and cooling additives in tobacco products that are intended to attract and retain users by masking the naturally harsh taste of tobacco. More specifically, the combination of flavorings, the introduction of novel tobacco products, and deployment of predatory marketing has presented new public health threats in the form of increased initiation and sustained use of tobacco, particularly among certain vulnerable groups.

Contrary to popular beliefs, flavorings do not reduce the health impacts and risks associated with tobacco use, and are not safer than non-flavored tobacco products;²⁷¹ in fact, the literature suggests that flavored and mentholated tobacco products pose significant public health risks because they make these toxic tobacco substances more appealing and palatable upon use. There is also a

growing body of research which shows that these chemical flavorings and additives may present another level of exposure that has not been deemed safe for inhalation.

Furthermore, the literature shows that the tobacco industry has manipulated and marketed these flavor and menthol tobacco products to account for user preferences that skew younger, and reinforce sociocultural messages with priority populations. Research supports the finding that flavors and menthol tobacco products are “starter” products that establish daily habits and increase addiction to tobacco products, make it harder to quit, and increase use of multiple tobacco products concurrently.

Consumption of flavored tobacco products such as cigars, smokeless tobacco, hookah tobacco, and liquid nicotine solutions (used in electronic smoking devices) have increased in recent years, while menthol cigarettes continue to corner a large part of the U.S. cigarette market. Strong evidence supports the finding that youth, certain racial/ethnic groups, and other targeted priority populations (i.e., LGBT and women) are particularly vulnerable to sweet flavors and menthol, and are largely driving this increased uptake and sustained use of flavored tobacco products.

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Chapter 5.78
TOBACCO RETAILERS Revised 6/19 Revised 7/19

Sections:

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5.78.010 Title. Revised 6/19

This chapter shall be known as the "Tobacco Retailer Ordinance" of the city of Hermosa Beach. (Ord. 19-1389 §1 (part), 2019)

5.78.020 Purpose. Revised 6/19

In enacting this chapter, it is the intent of the city council to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those involving the sale or distribution of tobacco and nicotine products to youth. (Ord. 19-1389 §1 (part), 2019)

5.78.030 Definitions. Revised 6/19 Revised 7/19

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"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 (2) 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.

"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.

"Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

"Electronic smoking device" has the same meaning as the term is defined in Section 8.40.010.

"Enforcement official" means any member of the Hermosa Beach Code enforcement department, the Hermosa Beach police department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County sheriff's department, or their designees.

"Flavored tobacco product" means any tobacco product that imparts a characterizing flavor.

"Little cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three (3) pounds per thousand. "Little cigar" includes, but is not limited to, any tobacco product known or labeled as "small cigar" or "little cigar."

"Package" 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.

"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

"Pharmacy" means any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the state of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

"Restaurant" means a place where people pay to sit and eat meals that are cooked and served on the premises.

"Restaurant" does not include a deli where prepared foods are ordered, purchased, and picked up by a person to be eaten outside or off the premises without service.

"Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

"Self-service display" means the open display or storage of tobacco products 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 retailer's agent or employee. A vending machine is a form of self-service display.

"Smoking" means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation that facilitates the release of gases, particles, or vapors into the air.

"Tobacco paraphernalia" means any item designed for the consumption, use, or preparation of tobacco products.

"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, snus; and
2. Any electronic smoking device, with or without nicotine.
3. Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of 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.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange. (Ord. 19-1392 §1, 2019; Ord. 19-1389 §1 (part), 2019)

5.78.040 Tobacco retailer license required. Revised 6/19

It shall be unlawful for any person to engage in tobacco retailing in the city without first obtaining and maintaining a valid tobacco retailer license pursuant to the provisions of this chapter for each location at which that activity is to occur. (Ord. 19-1389 §1 (part), 2019)

5.78.050 Limits on eligibility and location. Revised 6/19

A. No license may be issued under this chapter to authorize tobacco retailing at other than a fixed location, such as on foot or from vehicles.

B. No license may be issued under this chapter to authorize tobacco retailing at a temporary or recurring temporary event, such as farmers' markets, special events, or mobile carts.

C. No license may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the Hermosa Beach Zoning Ordinance.

D. Pharmacies. No license may be issued to authorize tobacco retailing in a pharmacy.

E. Schools and Youth-Populated Areas. Tobacco retailing is prohibited near schools and areas with youth populations as follows:

1. No license may issue to authorize tobacco retailing within five hundred (500) feet of a youth-populated area as measured by a straight line from the nearest point of the property line of the parcel on which the youth-populated area is located to the nearest point of the property line of the parcel on which the applicant's business is located.

For the purposes of this subsection, a "youth-populated area" means a parcel in the city that is occupied by:

- a. A private or public kindergarten, elementary, middle, junior high, or high school;
- b. A library open to the public;
- c. A playground or sandbox area open to the public, as defined by California Health and Safety Code Section 104495; or
- d. A youth center, defined as a facility where children, ages six (6) to seventeen (17), inclusive, come together for programs and activities.

F. Premises Furnishing Alcohol and/or Food for On-Site Consumption. No license may issue to authorize tobacco retailing at any of the following locations: (1) a place that is licensed under state law to serve alcoholic beverages for consumption on the premises (e.g., an "on-sale" license issued by the California Department of Alcoholic Beverage Control); or (2) a restaurant, as the term is defined in this chapter.

G. Notwithstanding the foregoing, a tobacco retailer operating lawfully on the effective date of the ordinance codified in this chapter that otherwise would be eligible for a tobacco retailer license for the location for which a license is sought may receive or renew a license for that location so long as: (1) the license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension); (2) the tobacco retailer is not closed for business or otherwise suspends tobacco retailing for more than sixty (60) consecutive days; (3) the tobacco retailer does not substantially change the business premises or business operation; and (4) the tobacco retailer retains the right to operate under other applicable laws, including without limitation the Zoning Ordinance, building codes, and business license tax ordinance, (Ord. 19-1389 §1 (part), 2019)

5.78.060 License application procedure. Revised 6/19

A. Any person seeking a license pursuant to this chapter shall submit a completed application, on a city-approved form, to the finance department.

B. The application for a license under this chapter shall be submitted in the name of each and every business owner proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each business owner or an authorized agent thereof.

C. Said application shall contain the following information:

1. The name, address, and telephone number of each business owner 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 of an agent authorized by each business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subsection (C)(2) of this section.

4. Proof that the location for which a tobacco retailer license is sought has been issued a valid state tobacco retailer's license by the California Department of Tax and Fee Administration.

5. Whether any business owner or any agent of the business owner was previously issued a license pursuant to this chapter which was at any time suspended or revoked, and, if so, the dates of the suspension period or the date of the revocation.

6. Whether any business owner or any agent of the business owner has been determined to have violated any provision of this chapter or any state or federal tobacco-related law, and, if so, the dates of all such violations within the preceding five (5) years.

7. Such other information as the finance department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this chapter.

D. The city council may establish by resolution the amount of an application fee for the tobacco retailer license in an amount not to exceed the city's reasonable cost of providing the services required by this chapter, in which case the city shall accept no application unless accompanied by payment of such fee.

E. An applicant or agent thereof shall inform the finance department in writing of any change in the information submitted on an application for a tobacco retailer registration within ten (10) business days of a change. (Ord. 19-1389 §1 (part), 2019)

5.78.070 Issuance of tobacco retailer license. Revised 6/19

A. Upon the receipt of a completed application for a tobacco retailer license and the corresponding application fee, if any, the finance department, with consultation of community development department for location requirements, shall issue a license unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

2. The application seeks authorization for tobacco retailing at a location prohibited by Section 5.78.050.

3. The applicant has had a license issued pursuant to this chapter revoked within the preceding twelve (12) months.

4. The application seeks authorization for tobacco retailing that is otherwise prohibited pursuant to this chapter, that is unlawful pursuant to this Code (including without limitation the Hermosa Beach Zoning Ordinance and business license regulations), or that is unlawful pursuant to any other law.

5. The applicant is indebted to the city for any unpaid fee or fine.

B. Any applicant aggrieved by a decision denying a license pursuant to this chapter may contest the decision by appealing the decision to the city council by filing with the city manager a written notice of appeal within ten (10) business days of the date of receipt of the license denial. Upon receipt of a timely, written request for an appeal, the city clerk shall set a hearing to occur within forty-five (45) days before the council or its designated hearing officer and shall provide written notice of same by first class mail to the appellant. The city council shall sustain or overrule with conditions, the denial or intended revocation upon written findings within thirty (30) days of the conclusion of the hearing. (Ord. 19-1389 §1 (part), 2019)

5.78.080 Term and renewal. Revised 6/19

A. A tobacco retailer license issued pursuant to this chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this chapter. The expiration date of each tobacco retailer license shall be shown on the license itself and each tobacco retailer license shall expire at midnight on the expiration date.

B. Each tobacco retailer who seeks to renew a license issued pursuant to this chapter shall submit a renewal application on a city-approved form and tender any applicable fees to the finance department no later than thirty (30) calendar days prior to the expiration of the license. Any license issued pursuant to this chapter that is not timely renewed shall expire and become null and void at the end of its term.

C. An application to renew a license issued pursuant to this chapter may be denied by the finance department upon the grounds set forth in Section 5.78.070. (Ord. 19-1389 §1 (part), 2019)

5.78.090 License nontransferable. Revised 6/19

A. No person shall operate under a name, or conduct business under a designation, not specified on the license.

B. A license issued pursuant to this chapter may not be transferred from one (1) person to another or from one (1) location to another. A change in business owner, business name, or location shall render the license null and void, and shall require a new license to be obtained in accordance with the provisions of this chapter. (Ord. 19-1389 §1 (part), 2019)

5.78.100 Operating requirements. Revised 6/19 Revised 7/19

The following operating requirements shall be deemed conditions of any tobacco retailer license issued pursuant to the provisions of this chapter, and failure to comply with any such requirement shall be grounds for suspension, revocation, or the imposition of administrative fines in accordance with Section 5.78.120.

A. Posting of License. Each license issued pursuant to this chapter shall be prominently displayed in a publicly visible location at the permitted location.

B. Retail Sales to Persons under Twenty-One (21) Prohibited. No person engaged in tobacco retailing shall sell or offer to sell, give or offer to give, or transfer or offer to transfer any tobacco product to any person who is under the legal age under state law to purchase and possess tobacco products, which is age twenty-one (21) (or eighteen (18) if active military).

C. Positive Identification Required. No tobacco retailer shall sell or transfer a tobacco product to any person who appears to be under the age of thirty (30) years old without first examining the identification of that person to confirm that person is at least the minimum age under state law to purchase and possess the product. The tobacco retailer or agent thereof shall refuse the sale or transfer of any tobacco product to any person who appears to be under the age of thirty (30) years old, who fails to present valid, legal photo identification prior to the sale or transfer.

D. Minimum Age for Persons Selling Tobacco. No person who is younger than twenty-one (21) shall engage in tobacco retailing.

E. Self-Service Displays Prohibited. Tobacco retailing by means of a self-service display is prohibited.

F. Electronic Smoking Device.

1. 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 electronic smoking device. The prohibition in the preceding sentence shall not apply to a retailer that permits only patrons twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location where the tobacco product is sold.

2. There shall be a rebuttable presumption that a tobacco retailer in possession of four (4) or more electronic smoking devices, including but not limited to individual electronic smoking devices, packages of electronic smoking devices, or any combination thereof, possesses such electronic smoking devices with intent to sell or offer for sale.

G. Flavored Tobacco Products.

1. 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.

2. There shall be a rebuttable presumption that a tobacco retailer in possession of four (4) 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.

3. 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 done the following:

- a. Made a public statement or claim that the tobacco product imparts a characterizing flavor;
- b. 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
- c. Taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.

H. Packaging and Labeling. No tobacco retailer shall sell any tobacco product to any consumer unless such product: (1) is sold in the original manufacturer's package intended for sale to consumers; and (2) conforms to all applicable federal labeling requirements.

I. Minimum Package Size for Little Cigars. No tobacco retailer shall sell to a consumer any little cigar unless it is sold in a package of at least twenty (20) little cigars.

J. False and Misleading Advertising Prohibited. A tobacco retailer who does not have a valid license pursuant to this chapter or whose license has been suspended or revoked shall not display any item or advertisement relating to tobacco products that promotes the sale or distribution of such products from the premises or that could lead a reasonable consumer to believe that tobacco products can be obtained at that location. Such display or advertisement in violation of this provision shall constitute tobacco retailing without a valid license. (Ord. 19-1392 §2, 2019; Ord. 19-1389 §1 (part), 2019)

5.78.110 Compliance monitoring and enforcement. Revised 6/19

A. Compliance checks shall be conducted so as to allow enforcement officials to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco. The chief of police may also conduct compliance checks to determine compliance with other laws applicable to tobacco retailing.

B. During business hours, enforcement officials shall have the right to enter any place of business for which a license is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes.

C. The Hermosa Beach police department (or designee thereof) may promulgate and adopt policies, procedures, and guidelines for the participation of persons under the minimum legal age for tobacco purchases in compliance checks pursuant to this chapter ("youth decoys").

D. Enforcement officials shall inspect each tobacco retailer at least one (1) time per every twelve (12) month period. Nothing in this subsection shall create a right of action in any licensee or other person against the city or its agents. (Ord. 19-1389 §1 (part), 2019)

5.78.120 Violations. Revised 6/19

A. Administrative Fine. In addition to any other penalty authorized by law, violations of this chapter are subject to the administrative citations and penalties provisions in Chapter 1.10.

B. Suspension or Revocation.

1. In addition to any other penalty authorized by law, a tobacco retailer's license shall be suspended or revoked if the city finds based on a preponderance of the evidence, after the licensee is afforded notice and an opportunity to be heard, that any of the following has occurred:

- a. The licensee or his/her agent or employee has violated any provision of this chapter;

- b. The licensee or his/her agent or employee has continued to operate as a tobacco retailer after a license issued pursuant to this chapter has been suspended; or
- c. The retailer violates any provision of this chapter twice within any thirty-six (36) month period.

2. Notwithstanding the foregoing, a license may be revoked if it is determined that one (1) or more grounds for denial of a license under Section 5.78.070 existed at the time the application was made or at any time before the license was issued. No administrative fine shall accompany a revocation of a wrongly issued license.

3. Any applicant aggrieved by a decision revoking or suspending a license pursuant to this chapter may contest the decision in the same manner as a challenge of an administrative citation, pursuant to the procedure set forth in Section 5.78.070(B), (Ord. 19-1389 §1 (part), 2019)

5.78.130 Tobacco retailing without a valid license. Revised 6/19

In addition to any other penalty authorized by law, if the city based on a preponderance of evidence, after notice and an opportunity to be heard, determines 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 retailer's license as follows:

A. After a first 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 thirty (30) days have passed from the date of the violation.

B. After a second violation of this section at a location within any thirty-six (36) month period, no new license may issue 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.

C. After of a third or subsequent violation of this section at a location within any thirty-six (36) month period, 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 three (3) years have passed from the date of the violation. (Ord. 19-1389 §1 (part), 2019)

5.78.140 New license after revocation. Revised 6/19

Notwithstanding any other provision of this chapter, no tobacco retailer's license shall be issued to a tobacco retailer (or business owner thereof) whose license has previously been revoked pursuant to this chapter for a period of twelve (12) months from the date of the prior revocation, unless ownership of the business at the location has been transferred in an arm's length transaction. (Ord. 19-1389 §1 (part), 2019)

5.78.150 Implementing rules and regulations. Revised 6/19

The city manager is hereby authorized to make and promulgate any rules and regulations necessary to implement the requirements of this chapter. The rules and regulations shall be in addition to the requirements set forth in this chapter. In the event of a conflict between a provision set forth in this chapter and a rule or regulation promulgated by the city manager pursuant to this section, the more stringent or restrictive requirement or condition shall apply. (Ord. 19-1389 §1 (part), 2019)

Web Version

ORDINANCE NO. 2019-0012

Adopted by the Sacramento City Council

April 16, 2019

**An Ordinance Amending Various Sections of Chapter 5.138 of the
Sacramento City Code, Relating to Tobacco Retailers**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.138.010 of the Sacramento City Code is amended to read as follows:

5.138.010 Legislative findings.

- A. State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to persons under 21 years of age except active duty military personnel who are 18 years of age or older (California Penal Code § 308).
- B. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 21 years of age (California Business & Professions Code § 22956) and provides procedures for using persons under 21 years of age to conduct onsite compliance checks of tobacco retailers (California Business & Professions Code § 22952).
- C. State law requires that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to anyone under 21 years of age is illegal (California Business & Professions Code § 22952, California Penal Code § 308).
- D. State law prohibits the sale or display of cigarettes through a self-service display and prohibits public access to cigarettes without the assistance of a clerk (California Business & Professions Code § 22962).
- E. State law prohibits the sale of “bidis” (a type of hand-rolled filterless cigarette) except at those businesses that prohibit the presence of minors (California Penal Code § 308.1).
- F. 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 six-tenths of an ounce of tobacco (California Penal Code § 308.3).

- G. State law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees (California Education Code § 48901(a)).
- H. Sacramento City Code section 5.140.040 prohibits the sale or distribution of tobacco products from vending machines.
- I. From 2013 to 2015, an estimated 15% of ninth and eleventh grade students in California reported using electronic smoking devices.
- J. Over 9% of high school students in California reported buying their own electronic cigarette from a store.
- K. In 2016, an estimated 82% of tobacco retailers in California sold flavored non-cigarette tobacco products, over 90% of tobacco retailers sold menthol cigarettes, and 80% tobacco retailers near schools sold flavored non-cigarette tobacco products.
- L. Mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and these products help establish tobacco habits that can lead to long-term addiction.
- M. Between 2004 and 2014, use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (18 to 25 years of age) and adults (over 26 years of age).
- N. Unlike cigarette use that has steadily declined among youth, the prevalence of the use of non-cigarette tobacco products has remained statistically unchanged and, in some cases, increased among youth.
- O. Flavored tobacco has significant public health implications for youth and people of color as a result of targeted industry marketing strategies and product manipulation.
- P. The density and proximity of tobacco retailers influence smoking behaviors, including the number of cigarettes smoked per day.
- Q. Adults who smoke have a harder time quitting when density of tobacco retailers is high.
- R. Policies to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers.
- S. Neither federal nor California state laws restrict the sale of menthol cigarettes or flavored non-cigarette tobacco products, electronic smoking devices, or the solutions used in these devices.

- T. 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 persons under 21 years of age; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to persons under 21 years of age; and in protecting youth and underserved populations from the harms of tobacco use.
- U. California courts in Cohen v. Board of Supervisors (1985) 40 Cal.3d 277, Bravo Vending v. City of Rancho Mirage (1993) 16 Cal.App.4th 383, and Prime Gas v. City of Sacramento (2010) 184 Cal.App.4th 697, have affirmed the power of local jurisdictions to regulate business activity in order to discourage violations of law.
- V. State law authorizes local tobacco retailer licensing laws to provide for the suspension or revocation of the local tobacco retailer license for any violation of a state tobacco control law (California Business & Professions Code § 22971.3).
- W. 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.

SECTION 2.

Section 5.138.030 of the Sacramento City Code is amended to read as follows:

5.138.030 Definitions.

As used in this chapter, the following words and phrases shall have the meaning given them in this section, unless the context clearly requires otherwise:

“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 under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this chapter that occurred at the location, is presumed not to be an “arm’s length transaction.”

“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, alcohol beverage, herb, or spice.

“City manager” means the city manager of the city or his or her designee.

“Flavored tobacco product” means any tobacco product that imparts a characterizing flavor.

“Itinerant tobacco retailing” means engaging in tobacco retailing at other than a fixed location.

“License” means a tobacco retailer license issued by the city pursuant to this chapter.

“Licensee” means any proprietor holding a license issued by the city pursuant to this chapter.

“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 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 has, or can have, sole or shared control over the day-to-day operations of a business.

“Tobacco product” means:

1. A 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, or snuff;
2. An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah; and
3. Any component, part, or accessory of a tobacco product, whether or not sold separately.
4. “Tobacco product” does not include a 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 the product is marketed and sold solely for such an approved purpose.

“Tobacco paraphernalia” means any item designed or marketed for the consumption, use, or preparation of a tobacco product.

“Tobacco retailer” means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

“Tobacco retailing” means selling, offering for sale, exchanging, or offering to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange.

SECTION 3.

Section 5.138.040 of the Sacramento City Code is amended to read as follows:

5.138.040 Requirement for tobacco retailer license.

- A. It shall be unlawful for any person to act as a tobacco retailer without a valid license for each location at which tobacco retailing is to occur. No license will be issued to authorize tobacco retailing at other than a fixed location. No license will be issued for itinerant tobacco retailing or tobacco retailing from vehicles.
- B. No license shall issue, and no existing license shall be renewed, to authorize tobacco retailing within 1,000 feet of a tobacco retailer already licensed pursuant to this chapter as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing licensee's business is located.
- C. Nothing in this chapter shall be construed to grant any person obtaining a license any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the license, subject to compliance with all other applicable laws, regulations, and ordinances. Nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on indoor smoking made applicable to business establishments by California Labor Code section 6404.5.

SECTION 4.

Section 5.138.060 of the Sacramento City Code is amended to read as follows:

5.138.060 Issuance and renewal of license.

- A. Upon the receipt of an application for a license and the applicable license fee, the city manager shall issue a license unless:
 - 1. The application is incomplete or inaccurate;
 - 2. The application seeks authorization for tobacco retailing at an address that appears on a license that is suspended, has been revoked, or is subject to suspension or revocation proceedings for violation of any of the provisions of this chapter; provided, however, this subparagraph shall not constitute a basis for denial of a license if either or both of the following apply:
 - a. The applicant provides the city with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction;
 - b. It has been more than five years since the most recent license for that location was revoked;

3. The application seeks authorization for tobacco retailing that is unlawful pursuant to this code, or that is unlawful pursuant to any other local, state, or federal law; or
 4. The city manager has information that the applicant or his or her agents or employees has violated any local, state or federal tobacco control law at the location for which the license or renewal of the license is sought within the preceding 30-day period.
- B. A license is valid for one year and must be renewed not later than 30 days prior to the expiration of the license, but no earlier than 60 days prior to the expiration of the license. Unless revoked on an earlier date, all licenses expire one year after the date of issuance. A license may be renewed for additional one-year periods by submitting an application to the city manager and payment of the applicable license fee; provided, however, a license that is suspended, has been revoked, or is subject to suspension or revocation proceedings shall not be renewed. The application and license fee shall be submitted at least 30 days, but not more than 60 days, prior to the expiration of the current valid license. The applicant shall follow all of the procedures and provide all of the information required by section 5.138.050. The city manager shall process the application according to the provisions of this section.
- C. Notwithstanding section 5.138.040B, a tobacco retailer operating lawfully on the date this subsection C is effective that would otherwise be eligible for a tobacco retailer license for the location for which a license is sought may receive or renew a license for that location so long as all of the following conditions are met:
1. The license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension);
 2. The tobacco retailer is not closed for business or has not ceased tobacco retailing for more than 60 consecutive days;
 3. The tobacco retailer does not substantially change the business premises or business operation for the purpose of increasing the sale or display of tobacco products; and
 4. The tobacco retailer retains the right to operate under all other applicable laws.
- D. When the city manager does not approve a license or renewal of a license, the city manager shall notify the applicant of the specific grounds for the denial in writing. The notice of denial shall be served personally or by mail not later than five calendar days after the date of the denial. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the applicant at the address as it appears on the application. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States mail without extension of time for any reason. In lieu of mailing, the notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of the notice to any person designated in the California Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SECTION 5.

Section 5.138.100 of the Sacramento City Code is amended to read as follows:

5.138.100 License violation.

- A. It is a violation of a license for a licensee or his or her agents or employees to sell or offer for sale any flavored tobacco product. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or its agents or employees has made a public statement or claim that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, or images on the product's labeling or packaging that are used to expressly or impliedly communicate that a tobacco product has a characterizing flavor.
- B. It is a violation of a license for a licensee or his or her agents or employees to violate any local, state, or federal tobacco-related law.

SECTION 6.

Section 5.138.110 of the Sacramento City Code is amended to read as follows:

5.138.110 Suspension or revocation of license.

- A. In addition to any other remedy authorized by law, a license shall be suspended or revoked as provided in this section, if the city manager finds that the licensee or his or her agents or employees has or have violated any of the provisions of this chapter; provided, however, violations by a licensee at one location may not be accumulated against other locations of that same licensee, nor may violations accumulated against a prior licensee at a licensed location be accumulated against a new licensee at the same licensed location.
 - 1. Upon a finding by the city manager of a first license violation within any five-year period, the license shall be suspended for 30 days.
 - 2. Upon a finding by the city manager of a second license violation within any five-year period, the license shall be suspended for 90 days.
 - 3. Upon a finding by the city manager of a third license violation within any five-year period, the license shall be revoked.
- B. Notwithstanding section 5.138.110A, a license shall be revoked if the city manager finds that either one or both of the following conditions exist:
 - 1. One or more of the bases for denial of a license under section 5.138.060A existed at the time application was made or at any time before the license issued.
 - 2. The information contained in the license application, including supplemental information, if any, is found to be false in any material respect.

- C. In the event the city manager suspends or revokes a license, written notice of the suspension or revocation shall be served upon the licensee within five days of the suspension or revocation in the manner prescribed in section 5.138.060D. The notice shall contain:
1. A brief statement of the specific grounds for such suspension or revocation;
 2. A statement that the licensee may appeal the suspension or revocation by submitting an appeal, in writing, in accordance with the provisions of section 5.138.120, to the city manager, within 10 calendar days of the date of service of the notice; and
 3. A statement that the failure to appeal the notice of suspension or revocation will constitute a waiver of all right to an administrative appeal hearing, and the suspension or revocation will be final.
- D. A licensee for whom a license suspension is in effect, or whose license has been revoked, must cease all tobacco retailing and remove all tobacco products and tobacco paraphernalia from public view at the address that appears on the suspended or revoked license.

SECTION 7.

Section 5.138.120 of the Sacramento City Code is amended to read as follows:

5.138.120 Denial, suspension and revocation—Appeals.

- A. Any applicant or licensee aggrieved by the decision of the city manager in denying, suspending, or revoking a license, may appeal the decision by submitting a written appeal to the city manager within 10 calendar days from the date of service of the notice of denial, suspension, or revocation. The appeal must be accompanied by an appeal fee set by resolution of the city council. The written appeal shall contain:
1. A brief statement in ordinary and concise language of the specific action protested, together with any material facts claimed to support the contentions of the appellant;
 2. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested action should be reversed or otherwise set aside;
 3. The signatures of all parties named as appellants and their official mailing addresses; and
 4. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- B. The appeal hearing shall be conducted by a hearing examiner appointed pursuant to section 8.04.070.

- C. Upon receipt of any appeal filed pursuant to this section, the city manager shall transmit the appeal to the secretary of the hearing examiner who shall calendar it for hearing as follows:
1. If the appeal is received by the city manager not later than 15 days prior to the next regular appeal hearing, it shall be calendared for hearing at said meeting.
 2. If the appeal is received by the city manager on a date less than 15 days prior to the next appeal hearing, it shall be calendared for the next subsequent appeal hearing.
- D. Written notice of the time and place of the hearing shall be given at least 10 calendar days prior to the date of the hearing to each appellant by the secretary of the hearing examiner either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal.
- E. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion of the notice and order.
- F. Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.
- G. Any suspension or revocation of a license shall be stayed during the pendency of an appeal which is properly and timely filed pursuant to this section.

SECTION 8.

Section 5.138.140 of the Sacramento City Code is amended to read as follows:

5.138.140 Conduct of hearing.

- A. Hearings need not be conducted according to the technical rules relating to evidence and witnesses. California Government Code section 11513, subdivisions (a), (b) and (c), shall apply to hearings under this chapter.
- B. Oral evidence shall be taken only upon oath or affirmation.
- C. Irrelevant and unduly repetitious evidence shall be excluded.
- D. Each party shall have these rights, among others:
1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 2. To introduce documentary and physical evidence;

3. To cross-examine opposing witnesses on any matter relevant to the issues on the hearing;
 4. To impeach any witness regardless of which party first called the witness to testify;
 5. To rebut the evidence presented against the party; and
 6. To represent himself, herself, or itself or to be represented by anyone of his, her, or its choice who is lawfully permitted to do so.
- E. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

SECTION 9.

Section 5.138.150 of the Sacramento City Code is amended to read as follows:

5.138.150 Form and contents of decision—Finality of decision.

- A. If it is shown, by a preponderance of the evidence, that one or more bases exist to deny, suspend, or revoke the license, the hearing examiner shall affirm the city manager's decision to deny, suspend, or revoke the license. The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented.
- B. The decision shall inform the appellant that the decision is a final decision and that the time for judicial review is governed by California Code of Civil Procedure section 1094.6. Copies of the decision shall be delivered to the parties personally or sent by certified mail to the address shown on the appeal. The decision shall be final when signed by the hearing examiner and served as provided in this section.

SECTION 10.

Section 5.138.160 of the Sacramento City Code is amended to read as follows:

5.138.160 Enforcement.

- A. In addition to any other remedy, any person violating any provision of this chapter shall be guilty of a misdemeanor for each day such violation continues.
- B. Any violation of this chapter may be remedied by a civil action brought by the city attorney. The city may recover reasonable attorneys' fees and costs of suit in any civil action brought by the city attorney to remedy any violation of this chapter.

- C. Any person violating the provisions of this chapter shall also be liable for civil penalties of not less \$250 or more than \$25,000 for each day the violation continues.
- D. Violations of this chapter are hereby declared to be public nuisances subject to abatement by the city.
- E. In addition to criminal sanctions, civil penalties as provided in this section, and other remedies set forth in this chapter, administrative penalties may be imposed pursuant to chapter 1.28 against any person violating any provision of this chapter. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to chapter 1.28.

SECTION 11.

The effective date of this ordinance is January 1, 2020.

Adopted by the City of Sacramento City Council on April 16, 2019, by the following vote:

Ayes: Members Ashby, Guerra, Hansen, Harris, Jennings, Schenirer and
Mayor Steinberg

Noes: Member Carr

Abstain: None

Absent: Members Warren

Attest:

Mindy Cuppy Digitally signed by Mindy Cuppy
Date: 2019.04.29 12:10:02
-07'00'

Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

Passed for Publication: March 12, 2019

Published: March 15, 2019

Effective: January 1, 2020



ChangeLab Solutions

Law & policy innovation for the common good.

Item 5.

Model California Ordinance

Restricting the Sale of Menthol Cigarettes and Other Flavored Tobacco Products

Updated June 2017
(Originally published January 2014)

Developed by ChangeLab Solutions

This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

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Introduction and Report

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

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

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

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

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

Background

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

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

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

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

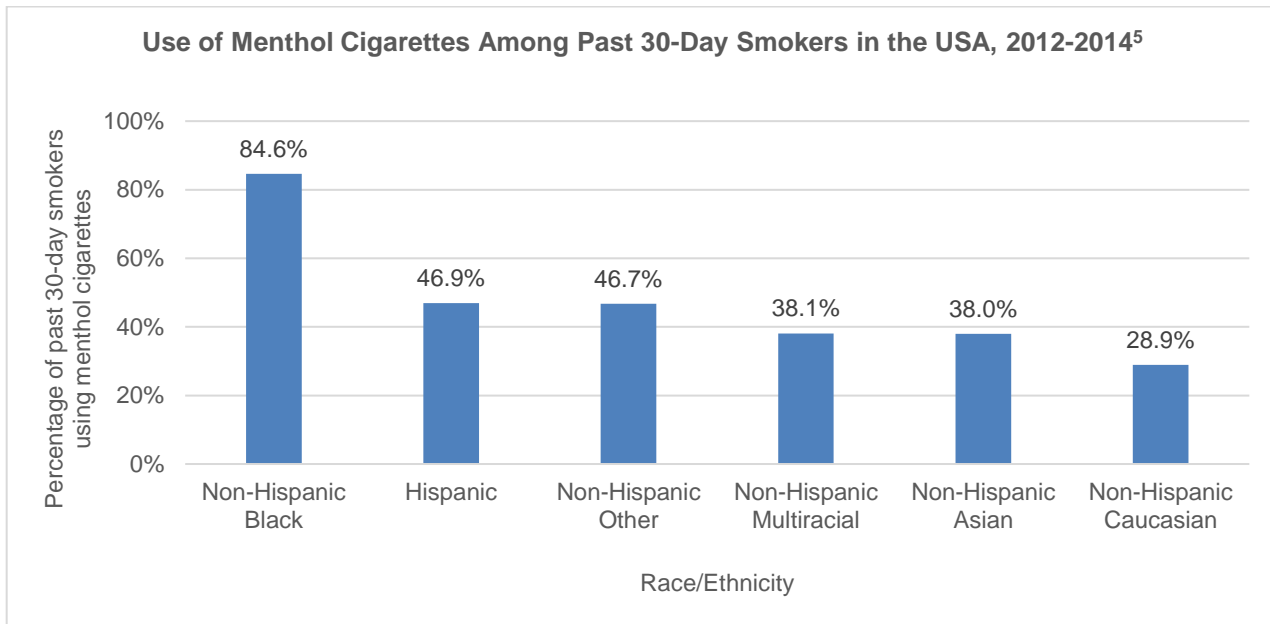
Menthol Cigarettes

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

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

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

adults with mental health conditions also struggle with disproportionately high rates of menthol cigarette use.^{8,9}



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

Other Flavored Tobacco Products

In addition to selling menthol cigarettes, tobacco companies have developed flavored OTPs that have the same youth-friendly characteristics as the banned flavored cigarettes. For example, many of the cigar brands that are popular among teens are available in flavors such as apple, chocolate, grape, and peach.¹⁴ In fact, cigars follow only ESDs and cigarettes as the third most common form of tobacco used by youth.¹⁵ Smokeless tobacco products, including chewing tobacco, snuff, and snus, come in flavors such as mint, wintergreen, berry, cherry, and apple¹⁶ to mask the harsh taste of tobacco.^{14,17} Hookah tobacco (shisha) is available in an array of fruit, herbal, and alcoholic beverage flavors, and there is a strong—and false—perception among young people that smoking hookah is safer than smoking cigarettes.¹⁸ Nicotine solutions, also known as e-liquids and which are consumed via ESDs such as electronic

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

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

Like menthol, flavorings such as chocolate or apple help mask the naturally harsh taste of tobacco, making it easier for young people to start and continue using tobacco products.² In fact, a 2013-2014 survey found that “80.8 percent of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product.”^{25,26} Policy interventions that target youth tobacco use are particularly critical because most individuals start using tobacco as minors or young adults.²⁷ In California, 64% of smokers start smoking by age 18, and 96% start smoking by age 26.²⁸ Compared with individuals who start smoking later in life, individuals who start smoking at a young age are at increased risk for severe addiction to nicotine.¹⁴

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

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

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

Considerations When Regulating Flavored Tobacco Products

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

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

- In 2015, 10.3% of high school students reported using cigars, cigarillos, or little cigars.¹⁵
- Youth hookah use increased more than 75% from 2011 to 2015, and youth ESD use increased more than tenfold during the same period.³⁸
- The percentage of high school students using smokeless tobacco products increased from 6.4% in 2012³⁹ to 7.3% in 2015.¹⁵
- A significant percentage of youth cigarette smokers concurrently use OTPs, increasing their risk for addiction and other health problems.¹⁴
- In a 2013-2014 survey, more than two-thirds of youth who used a non-cigarette tobacco product within the past 30 days reported doing so “because they come in flavors I like.”²⁶

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

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

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

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

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

Legal Issues

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

Federal Preemption

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

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

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

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

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

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

First Amendment

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

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

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

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

Conclusion

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Requirements to Qualify for the Exemption:

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

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

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

Takings

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

An amortization period gives certain existing businesses a period of time to do business as usual before they must make changes to comply with a new law. Amortization periods are constitutional ways for local governments to balance the public interest and any financial impact on a private business. These periods are often short, measured in months, not years.

It is important to note that the financial impact is less severe for a business that sells many other products in addition to tobacco products (eg, convenience stores and grocery stores), and that inventory can be returned to the wholesaler or resold for retail sale outside the city or county adopting the prohibition. Moreover, the time between adoption of an ordinance and its effective date is sufficient to amortize minor investments in inventory and signage. For these reasons, the optional temporary grandfathering provision applies only to tobacco retailers that sell a significant amount of tobacco products and/or tobacco paraphernalia; these businesses may be most affected by a flavored tobacco prohibition. Nevertheless, a flavored tobacco prohibition does not require businesses to close, or even to stop selling all tobacco products. It is a reasonable restriction on a type of tobacco product that is particularly harmful, especially to youth. Examples of reasonable amortization periods in different contexts include the following.

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

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

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

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

Sec. [____ (*3)]. ENFORCEMENT.

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

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

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

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

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

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

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

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

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

SECTION III. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this Ordinance, or its application to any other person or circumstance. The [City Council / Board of Supervisors] of the [City / County] of [____] hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

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

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

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

Appendix A: Findings.

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

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

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

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

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

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

WHEREAS, mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco¹⁰ and that these products help establish tobacco habits that can lead to long-term addiction;¹¹ and

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

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

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

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

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

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

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

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

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

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

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

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

products easier to use and increasing their appeal among youth;²² and

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

WHEREAS, smoking mentholated cigarettes reduces the likelihood of successfully quitting smoking;²⁴ and

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

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

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

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

WHEREAS, scientific studies on the impact of a national ban on menthol in cigarettes found 36.5% of menthol cigarette users would try to quit smoking if menthol was banned³⁰ and between 300,000 and 600,000 lives would be saved by 2050;³¹ and

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

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City of Oroville

Leonardo DePaola
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PLANNING COMMISSION STAFF REPORT

Thursday, October 24, 2019

RE: ORDINANCE TO PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS IN OROVILLE

SUMMARY: The Planning Commission may consider recommending to the City Council adoption of changes to Title 17 of the Oroville Municipal Code in order to prohibit the sale of flavored tobacco products.

RECOMMENDATION: Recommend that the City Council adopt changes to Oroville Municipal Code 17.04.060, and corresponding changes to Oroville Municipal Code 5.28.010

APPLICANTS: None

LOCATION: City wide

GENERAL PLAN: NA

ZONING: NA

FLOOD ZONE: NA

ENVIRONMENTAL DETERMINATION: Not a project under CEQA (para 21065 & CEQA Guidelines 15378(b)(5))

REPORT PREPARED BY:

REVIEWED BY:

Wes Ervin, Senior Planner
Community Development Department

Leonardo DePaola, Director
Community Development Director

DISCUSSION

In the interest of improved public health and especially for Oroville's youth, on October 1, 2019, the City Council directed staff to prepare an ordinance to prohibit the sale of flavored tobacco products within the City limits.

Some of these changes involve amendments to Title 17, which is the purview of the Planning Commission. Accordingly, the Commission is asked to review at its earliest opportunity recommended changes to Title 17 and Title 5 of the Oroville Municipal Code, and to forward the Commission's recommendations to the City Council for action.



Assembly Committees on Governmental Organization, Business & Professions, and Health Joint Informational Hearing:

**Vaping Tobacco and Cannabis Products: Health Effects
and Deficiencies in Regulation and Current Law
Wednesday, October 16, 2019
1:00 p.m., Room 4202**

INTRODUCTION

This will be the first of two hearings. This hearing will provide an overview of the issues related to vaping, including the health effects and regulatory landscape, with testimony provided by medical professionals, tobacco and vaping experts, and state government regulators. The hearing will also look into the growing popularity of e-cigarettes and vaping, and examine the overall impact on youth and general consumers.

BACKGROUND

On September 10, 2019, President Trump, Health and Human Services Secretary Alex Azar, and Dr. Ned Sharpless, the acting Commissioner of the Food and Drug Administration (FDA) announced they would issue a draft ban on most flavored e-cigarettes within several weeks. The agencies stated that the announcement was prompted by recent findings from the National Youth Tobacco Survey that indicate a rise in youth vaping, with over 25% of high school students stating they have used e-cigarettes in the past 30 days. Pursuant to a final rule from August 8, 2016, all electronic smoking devices (ESD) or electronic nicotine delivery system (ENDS) products would be required to file premarket tobacco product applications within two years; however, the FDA had delayed the requirements until August 2021. In July 2019, a federal judge overseeing a lawsuit brought against the FDA by the American Academy of Pediatrics over the delay of the rule, ruled that e-cigarette companies must submit their products for FDA review within 10 months, or by May 2020. However, the judge held that these products would be allowed to remain on the market in the interim and for up to one year while the FDA reviews the applications.

The September 10 announcement is an indication that the FDA intends to finalize enforcement guidance to require any non-tobacco flavored product (i.e. kid-appealing flavors) to be removed from the market until an application for premarket approval has been obtained under the Tobacco Control

Act. To provide a non-combustible nicotine option for adults, tobacco-flavored products will be exempt from the enforcement order. However, Acting Commissioner Sharpless stated action would be taken against tobacco-flavored products if children start to migrate to those products as well.

Prior to this announcement, in September 2018, Dr. Scott Gottlieb, the FDA Commissioner at the time, declared that youth vaping is now an epidemic, and the FDA initiated the Youth Tobacco Prevention Plan, which focuses on preventing youth access to tobacco products, curbing the marketing of tobacco products aimed at youth, and educating teens about the dangers of using any tobacco products. The FDA then issued 12 warning letters to companies that continued to advertise and sell products to youth. The FDA also sent letters to five ESD manufacturers whose products were sold to kids during the FDA's ramped up enforcement period: JUUL, Vuse, MarkTen, blu e-cigs, and Logic, which comprise 97% of the e-cigarette market. The FDA requested that these companies provide robust plans on how they will address the widespread use of their products by minors or face increased enforcement.

These federal initiatives are a result of a multistate outbreak of lung injuries related to vaping. According to the Centers for Disease Control and Prevention (CDC), as of October 8, 2019, 1,299 lung injury cases associated with using e-cigarette, or vaping, products have been reported to CDC from 49 states and one U.S. territory. Twenty-six deaths have been confirmed in 21 states, including three in California. All patients have reported a history of using e-cigarette, or vaping, products. Most patients report a history of using products containing Tetrahydrocannabinol (THC) [the psychotropic ingredient in marijuana]. The latest national and regional findings suggest products containing THC play a role in the outbreak. Health officials are advising that people avoid using vaping devices of all kinds, whether loaded with nicotine or THC from cannabis. According to the CDC, the demographics of the lung injury cases are as follows: approximately 70% of patients are male; approximately 80% of patients are under 35 years old; sixteen percent of patients are under 18 years old; and 21% of patients are 18 to 20 years old.

It should be noted that e-cigarettes are not currently approved by the FDA as an aid to quit smoking. The U.S. Preventive Services Task Force, a group of health experts that makes recommendations about preventive health care, has concluded that evidence is insufficient to recommend e-cigarettes for smoking cessation in adults, including pregnant women. However, e-cigarettes may help non-pregnant adult smokers if used as a complete substitute for all cigarettes and other smoked tobacco products. To date, the few studies on the issue are mixed. A Cochrane Review found evidence from two randomized controlled trials that e-cigarettes with nicotine can help smokers stop smoking in the long term compared with placebo (non-nicotine) e-cigarettes. However, there are some limitations to the existing research, including the small number of trials, small sample sizes, and wide margins of error around the estimates. A recent CDC study found that many adults are using e-cigarettes in an attempt to quit smoking. However, most adult e-cigarette users do not stop smoking cigarettes and are instead continuing to use both products (known as "dual use").

According to Jeff Chen, Director of the UCLA Cannabis Research Initiative, to date there has never been a study on vaping cannabis. The current vaping crisis has focused attention on the substances used to dilute cannabis oil for vaping and little is known about what happens when those products are heated. There are also concerns about the devices used to vape nicotine and cannabis, which almost exclusively come from China. The federal government has left it to the states to create testing standards, while companies in the industry have sought to reassure consumers that their cannabis oil does not contain harmful chemicals. California tests cannabis and vaping products for pesticides and other contaminants from licensed entities. The lack of research stems from a longstanding federal prohibition on cannabis that has further impacted health studies on overall vaping products, which happens to be the fastest-growing market.

Within the last month, Massachusetts announced a four-month ban on the sale of all vaping products. New York and Michigan imposed bans on sales of flavored products, and the retailers Walmart and Kroger announced they would stop selling e-cigarettes. On September 27, 2019, Washington Governor Jay Inslee, through an executive order, called for the state to impose an emergency ban on all flavored vaping products, including those that contain nicotine and THC. On October 2, 2019, Utah health officials announced emergency rules requiring all tobacco retailers that sell e-cigarettes to post notices regarding the dangers of vaping unregulated THC products, and on October 7, 2019, Hawaii state officials issued an advisory to vaping.

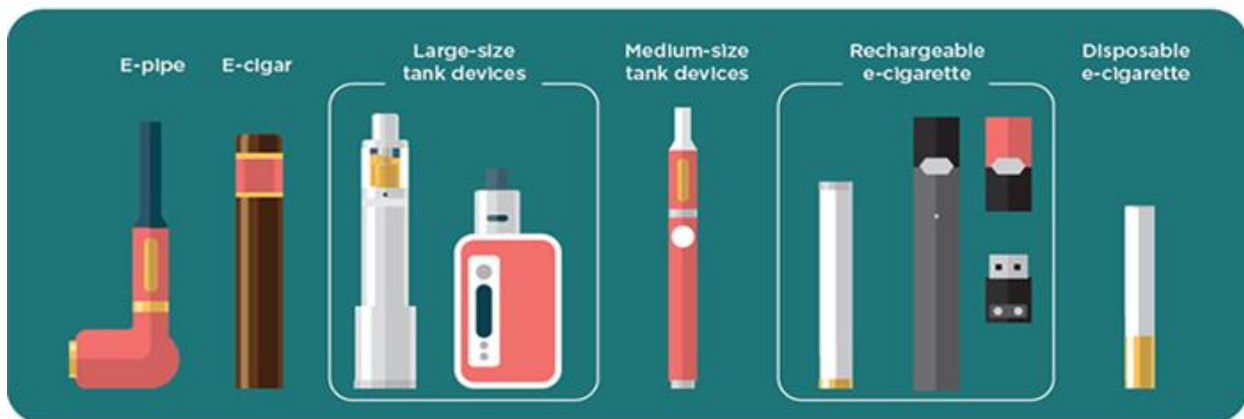
CALIFORNIA INITIATIVES

On September 16, 2019, Governor Gavin Newsom issued an executive order directing the California Department of Public Health (DPH) to launch a \$20 million statewide digital and social media public awareness campaign to educate youth, young adults, and parents about the health risks associated with vaping nicotine and cannabis products. DPH was also tasked with developing recommendations to reduce smoking among young adults and teens by establishing warning signs with health risks where vaping product are sold, and on product advertisements. The Governors' executive order also directs the California Department of Tax and Fee Administration (CDTFA) to develop recommendations to remove illegal and counterfeit vaping products from stores and include nicotine content in the calculation of the existing tax on electronic cigarettes. On September 24, 2019, DPH issued a health advisory urging everyone to refrain from vaping, no matter the substance or source.

DPH, other states, the CDC, the FDA, local health departments, and health care providers are investigating what is in the vape materials that is making people sick. In the health advisory DPH notes that, "All individuals put themselves at risk any time they inhale a foreign substance into their lungs. The risk of vaping for any individual may include serious illness and death. Vaping is not just a concern for youth; the vaping cases under investigation affect youth and adults alike."

VAPORIZERS, E-CIGARETTES, AND ENDS

According to the FDA, vapes, vaporizers, vape pens, hookah pens, electronic cigarettes (e-cigarettes or e-cigs), and e-pipes are some of the many terms used to describe ENDS. ENDS are noncombustible tobacco products. These products, or devices, use an “e-liquid” that may contain nicotine, as well as varying compositions of flavorings, propylene glycol, vegetable glycerin, and other ingredients. The liquid is heated to create an aerosol that the user inhales. ENDS may be manufactured to look like conventional cigarettes, cigars, or pipes. Some resemble pens or USB flash drives. Larger devices, such as tank systems or “mods,” bear little or no resemblance to cigarettes. These devices are also used to vaporize cannabis.



Use of e-cigarettes, now the most popular tobacco product among teens, has jumped 78% among high school students compared with 2017, with 20.8% (more than 3 million) of high schoolers now using e-cigarettes, according to new FDA data. The data also show that more than half of those high schoolers (51.2%) use menthol- or mint-flavored e-cigarettes. Research has demonstrated that flavored tobacco products play an important role in youth vaping. Almost a third of the middle and high school students who used e-cigarettes in 2016 said the availability of flavors is a main reason they used the products, according to a report from the CDC and the FDA. A study that included both middle and high school students found that 43% of youth who ever used e-cigarettes tried them because of appealing flavors. The majority of youth e-cigarette users think they vaped only flavoring, not nicotine, the last time they used a product, according to an annual national survey of more than 40,000 students from the University of Michigan *2016 Monitoring the Future* study, even though 99% of e-cigarettes sold in most brick-and-mortar stores contain nicotine. California monitors smoking rates among high school students using the California Student Tobacco Survey, administered by DPH on a biennial basis. One in eight California high school students currently use tobacco products, with the most used product among all student being ESDs (10.9%). In addition, 86.4% of youth tobacco users reported using flavored tobacco products

HEALTH IMPACTS OF VAPING

While there is little research on the health effects of vaping THC, in light of the recent outbreak of vaping related injuries/illnesses, the CDC recommends while the investigation is ongoing, that people consider refraining from using e-cigarette, or vaping products, particularly those containing THC. Adults who used e-cigarettes containing nicotine to quit cigarette smoking are encouraged not to return to smoking cigarettes, and anyone who recently used an e-cigarette or vaping product having symptoms like those reported in this outbreak, see a healthcare provider.

The CDC also states that anyone who uses an e-cigarette or vaping product should not buy these products (e.g., e-cigarette or vaping products with THC or Cannabidiol (CBD) oils) off the street, and should not modify or add any substances to these products that are not intended by the manufacturer. The CDC notes that youth, young adults, and pregnant women should not use e-cigarette or vaping products and adults who do not currently use tobacco products should not start using e-cigarette or vaping products.

The CDC's recommendations are bolstered by a growing body of research on the effects of e-cigarette use. A survey of recent studies, published in 2019 in the *American Journal of Respiratory and Critical Care Medicine*, *Journal of the American College of Cardiology*, and *Cardiovascular Toxicology*, found that e-cigarette aerosol with nicotine caused a significant increase in heart rate and arterial stiffness, having an acute impact on vascular and pulmonary function. A Yale study published in July of 2019 in the *American Journal of Preventative Medicine*, focused on the effects of the common flavoring vanillin, which is banned from combustible cigarettes, but allowed in e-cigarettes, and was found to irritate airways when combined with the acetals (molecules) in the aerosol, also known as vapor, produced by JUUL. A March 2018 Dartmouth study, published in the peer reviewed *Public Library of Science Journal*, concluded that, based on existing scientific evidence related to e-cigarettes and optimistic assumptions about the relative harm of e-cigarette use compared to cigarette smoking, e-cigarette use currently represents more population-level harm than benefit. The study also shows that, for every additional adult who quits smoking using e-cigarettes; there are 80 additional youth who initiate daily tobacco use through e-cigarettes.

Although there have been claims that e-cigarettes assist in quitting smoking, e-cigarettes are not currently approved by the FDA as a quit smoking aid. The U.S. Preventive Services Task Force, a group of health experts that makes recommendations about preventive health care, has concluded that evidence is insufficient to recommend e-cigarettes for smoking cessation in adults, including pregnant women.

TOBACCO LAWS AND REGULATIONS

Although there are robust combustible tobacco laws and regulations at the federal level, e-cigarettes have not yet been the subject of final federal regulations. In 1992, Congress passed

Section 1926 of Title XIX of the federal Public Health Service Act, commonly called the Synar Amendment. The Synar Amendment requires states to pass and enforce laws that prohibit the sale of tobacco to individuals under 18 years of age. It also requires federal alcohol and substance abuse block grant funding to be applied to enforce state law in a manner that can reasonably be expected to reduce the illegal sales rate of tobacco products to minors. Up to 40% of the block grant funding can be withheld from states for not complying with the Synar Amendment. In response to the Synar Amendment, in September 1994, the Stop Tobacco Access to Kids Enforcement Act (STAKE Act) was signed into law in California to address the increase in tobacco sales to minors and fulfill the federal mandate. The STAKE Act created a new statewide enforcement program authorizing regulatory actions against businesses that illegally sell tobacco to minors.

Federal law banning cigarette advertisements on television and radio went into effect in 1971; however, smokeless tobacco products were not banned until 1986. The Master Settlement Agreement (MSA) is an accord reached in November 1998 between the state Attorneys General of 46 states (including California), five U.S. territories, the District of Columbia, and the five largest tobacco companies in the U.S. concerning the advertising, marketing, and promotion of tobacco products. In addition to requiring the tobacco industry to pay the settling states approximately \$10 billion annually for the indefinite future, the MSA set standards for, and imposed restrictions on, the sale and marketing of cigarettes by participating cigarette manufacturers including targeting youth, using cartoons to advertise tobacco products, using brand-name merchandise, and sponsoring youth-oriented events. E-cigarettes are not part of this agreement. Under the MSA, states must pass laws requiring non-participating manufacturers to make payments to the state based on their cigarette sales, and, to diligently enforce the payments requirements by tracking all cigarettes sold in the state.

In California, e-cigarettes are included in the definition of tobacco products and the same limits apply to e-cigarettes as to combustible cigarettes, including limits on where they may be used. Existing California law prohibits the sale of tobacco products, including electronic cigarettes to individuals under age 21, but does not limit or restrict the types of flavors of electronic cigarettes. Recent efforts at the state and local level have focused on restricting the sale of tobacco products instead of advertising practices to avoid First Amendment challenges. Over 30 cities in California have passed local ordinances that ban the sale of flavored tobacco products. For example, the City of San Francisco recently banned the sale of all flavored tobacco products and e-cigarettes, including mint and menthol. The Los Angeles County Board of Supervisors voted unanimously on October 1, 2019, to ban flavored tobacco products, including menthol, taking effect in 30 days from the vote.

Approved by voters in 2016, Proposition 56 increased taxes on cigarettes and other tobacco products, including e-cigarettes, by \$2.00 starting in April 2017. It should be noted that that the

current vapor product tax is collected based on a percentage of the wholesale price of the end product sold to the consumer. The Proposition specifically allocates \$30 million of annual revenue to the California Department of Justice (DOJ). These funds support local agencies to enforce tobacco-related statutes and ordinances, including reducing the illegal sale of tobacco products to minors. Grantees may use grant funds to enforce state and local laws related to the illegal sale and marketing of tobacco products to minors and youth including: retailer compliance checks, retailer training programs, installation of signage, youth outreach, tobacco retail license inspections, and/or preventing and deterring use of tobacco products on school premises. On October 2, 2019, the Attorney General announced that 76 local agencies would receive a total of \$30.5 million in Proposition 56-authorized funds for 2019-20 through the DOJ's Tobacco Grant Program. The local entities, which include school districts, police departments and sheriff's offices, can use the money to hire additional officers and roll out enforcement programs and educational outreach initiatives.

In addition to being required to verify the purchasers' age for tobacco sales, retailers of cigarettes and tobacco products in California must have a Cigarette and Tobacco Products Retailer's License. As of June 9, 2016, state law expanded the definition of a tobacco product for cigarette and tobacco products retail licensing purposes to include nicotine products, electronic nicotine or other vaporized liquid delivery devices, and any component, part, or accessory of a tobacco product. Effective January 1, 2017, any retailer that sells any product included in the expanded definition of tobacco products is required to obtain and maintain a Cigarette and Tobacco Products Retailer's License from the CDTFA in order to engage in the retail sale of these products. A retailer's license is valid for a 12-month period, is not assignable or transferable, and must be renewed annually. A license fee payment is required for each retail location at initial registration, every year at the time of renewal. Many cities also have local licensing requirements, which may be more restrictive than state licensing requirements.

DPH also enforces the STAKE Act and its enforcement authority includes conducting unannounced inspections of retailers selling tobacco products to ensure retailers are not selling to youth. According to DPH, it conducted 4,675 compliance inspections and collected \$265,100 in civil penalties in fiscal year (FY) 2018-19. Currently, DPH is required to notify the CDTFA within 60 days of the final adjudication of a retailer's third, fourth, or fifth violation within a five-year time frame, however, DPH did not have any retailers that fit these criteria in FY 2018-19. DPH received an additional \$1.9 million in local assistance funding in FY 2019-20 to allocate grants to local entities for enforcement activities. According to CDTFA as of August 1, 2019, there are 30,685 registered cigarette and tobacco retail locations in California.

CANNABIS LAWS AND REGULATIONS

The regulation and study of the cannabis industry is particularly complex. Although the federal government considers cannabis a controlled substance, 33 states now allow its use for

either recreational or medicinal purposes, or both. Hundreds of cannabis products are sold, legally and illegally, such as THC oil, or cannabis oil with THC. The FDA has warned some sellers of cannabis product supplement not to make health claims, but so many are doing so that the agency cannot monitor them all. Liquid nicotine and THC, sometimes sold in cartridges for use in vaping devices can each contain oils that may be safe to swallow but can damage the lung when vaporized into a mix of unknown chemicals. The CDC has noted that many vaping injuries have been linked to unregulated THC products.

California first legalized cannabis for medical consumption through Proposition 215, also known as the Compassionate Use Act, in 1996. Proposition 215 protected qualified patients and primary caregivers from prosecution related to the possession and cultivation of cannabis for medicinal purposes. The Legislature passed the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015. MCRSA established for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by the Bureau of Cannabis Control within the Department of Consumer Affairs, DPH, and the California Department of Food and Agriculture.

Shortly following the passage of MCRSA in November 2016, California voters passed Proposition 64, the "Control, Regulate and Tax Adult Use of Marijuana Act" (AUMA), which legalized adult-use cannabis. In California, licensed cannabis retailers are required to sell products obtained from a licensed cannabis manufacturer that have been tested by a licensed laboratory. Cannabis products sold by licensed sources are tested for a variety of chemicals, pesticides, microbial impurities, and heavy metals. Under MCRSA, DPH was given the duty of promulgating regulations governing the labeling of all manufactured cannabis products, including determining a universal symbol to be used to mark all edible cannabis products.

DPH's Manufactured Cannabis Safety Branch (MCSB) released its final regulations in January of 2019. Under these regulations, a universal symbol must be placed on an inhaled product container, like a vape cartridge, if that container is separable from the outer-most packaging, like a vape pen. Existing emergency regulations required the universal symbol to be at least one-half inch by one-half inch and to be black in color.



CONCLUSION

Vaping has reached epidemic proportions across the nation and in California. The detrimental impact of smoking on health has been documented for many years and much like tobacco-use, vaping can be considered a risk factor for vascular and pulmonary diseases, as discussed above. Exposure to tobacco smoke is a risk factor for chronic diseases and is considered a human carcinogen. Acute effects of secondhand smoke are serious and include increased frequency and severity of asthma attacks, respiratory symptoms such as coughing and shortness of breath, and respiratory infections such as bronchitis and pneumonia. In addition, using tobacco or being exposed to tobacco smoke during pregnancy is detrimental in fetal development and increases the risk of sudden infant death syndrome.

The safety and long-term health effects of using e-cigarettes or other vaping products are not well known. Relating to the current crisis, federal and state officials have reported hundreds of total possible cases of pulmonary disease and several deaths related to vaping. State and federal health authorities state that the latest finding from their investigation into lung injuries suggest products containing THC play a role in the outbreak, however no single product or substance has been linked to all lung injury cases. According to the CDC, “THC use has been associated with a wide range of health effects, particularly with prolonged heavy use. The best way to avoid potentially harmful effects is to not use THC, including through e-cigarette, or vaping products.

Although the economic costs of vaping to society is not well established, the economic costs of smoking nationwide is more than \$300 billion a year, including nearly \$170 billion in direct medical care for adults and more than \$156 billion in lost productivity due to premature death and exposure to secondhand smoke. The 2012 California DPH State Health Officer's Report on Tobacco Use and Promotion in California estimated that adult tobacco related health care expenditures cost California \$6.5 billion that year, or about \$400 per taxpayer. Those figures did not include other health care costs for children, costs resulting from secondhand smoke exposure, the value of lost time/productivity, or lives lost.

The Governor’s initiatives are prudent first steps to addressing the growing vaping epidemic but more needs to be done to address the long-term health and economic cost of vaping, especially curbing its use among the youth. A second joint hearing, yet to be scheduled, will focus on how best to solve the problem, and how to identify and address obstacles to reducing the incidence of vaping, and the associated health risks.

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Alameda Ordinance No. 3230	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: November 27, 2018 Effective: July 1, 2019 Enforced: July 1, 2019	None	No TRLs may be issued to a pharmacy No TRLs may be issued within 300 feet of a youth populated area No TRL’s may be issued within 500 feet of another tobacco retailer The total number of TRLs within the city shall be limited to one for each 2,500 inhabitants of the city No tobacco retailers shall honor or redeem a coupon to allow a consumer to purchase a tobacco product for less than full price, sell a tobacco product through a multi-package discount, provide free or discounted items, or sell a tobacco product for less than full retail price Cigars and little cigars must be sold in packages of at least five Sets a minimum price of \$7 per package of cigarettes and \$5 for cigars	The City’s Planning, Building and transportation Department or any other City department shall inspect each tobacco retailers for compliance A violation of the provisions of this chapter within any five-year period may result in: <div><div>1.</div><div>A fine of \$1500 for a first violation</div></div> <div><div>2.</div><div>A 15 day suspension of the tobacco retail license for a second violation</div></div> <div><div>3.</div><div>A 30 day suspension of the tobacco retail license for a third violation</div></div> <div><div>4.</div><div>A license will be revoked for a fourth violation</div></div>	No
Albany Ordinance No. 2019-04	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: April 15, 2019 Effective: October 16, 2019	None	No tobacco retailers shall allow a consumer to purchase tobacco for less than full retail price through a coupon, multi-package discount, or provide a tobacco products for free No retailer shall sell: 1. Any little cigar unless it is sold in a package of at least twenty little cigars or 2. Any cigar unless it is sold in a package of at least six cigars (this does not apply to a cigar that has a price of at least \$8.00 per cigar, including all fees and taxes) No retailers shall sell cigarettes, little cigars, or a single cigar at a price that is less than \$8.00, including all applicable fees and taxes *the minimum price shall be adjusted annually by increments of \$.25 in proportion with the Consumer Price Index	The City of Albany Police Department is responsible for enforcing this ordinance A tobacco retailer’s license shall be revoked if the licensee is found to have violated any of the provisions of this chapter After revocation at a location within any 60-month period: <div><div>1.</div><div>No new license may be issued at a location for 30 days after a first violation</div></div> <div><div>2.</div><div>No new license may be issued at a location for 90 days after a second violation and the retailer will be subject to a \$250 fine</div></div> <div><div>3.</div><div>No new license may be issued at a location for one year after a third violation and the retailer will be subject to a \$500 fine</div></div> <div><div>4.</div><div>No new license may be issued at a location for five years after four or more violations and the retailer will be subject to a \$1000 fine</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Berkeley Ordinance No. 7.672-N.S. Municipal Code Chapter 9.80	Prohibits the sale of flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: September 2015 Effective: January 1, 2017 Enforced: January 1, 2020 Updated: July 23, 2019	None	No new TRL may be issued to a pharmacy or renewed by a pharmacy No new TRL may be issued within 600 feet of school Little cigars/cigarillos must be sold in packages of at least 20 and cigars must be sold in packages of at least 6 No tobacco retailer may sell cigarettes at a price less than \$8 per package of 20 cigarettes, little cigars at a price less than \$8 per package of little cigars, and cigars at a price less than \$7 per cigar, including all taxes and fees (the established minimum prices shall be adjusted annually) Tobacco retailers may not honor or redeem coupons, sell tobacco products through a multi-package discount, or provide free or discounted tobacco products	A violation of the provisions of this chapter within any five-year period may result in: <ol style="list-style-type: none">1. The suspension of a license for up to 30 days for a first violation2. The suspension of a license for up to 90 days for a second violation3. The suspension of a license for up to one year for a third violation4. The revocation of a license upon the fourth violation	
Beverly Hills Ordinance No. 18-2758 Municipal Code Chapter 4-2-21	Prohibits the sale of all tobacco products, including flavored and menthol flavored tobacco products, within the city limits	All tobacco products	Yes	Adopted: August 21, 2018 Effective: September 21, 2018 Enforced: December 21, 2018	None	The flavors policy is enforced through a TRL that must be paid annually	A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. A civil penalty fine of \$250 for a first violation within any five year period2. The suspension of the TRL for 90 days and a civil penalty fine of \$750 for a second violation within a five year period3. The revocation of the TRL and a civil penalty fine of \$1,000 for a third violation within a five year period	No
Burbank Ordinance No. 19-3.921 Municipal Code Chapter 3-4-25	Restricts the sale of all flavored tobacco products, with the exception of flavored hookah tobacco for use in a non-e-hookah, to a tobacco bar within the city limits	All tobacco products (with the exemption of hookah)	Yes	Adopted: October, 2019 Effective: November, 2019 Enforced: May 1, 2020	Ordinance exempts tobacco bars (including smoking bars and hookah bars) Ordinance exempts the sale of hookah tobacco for use in a non-e-hookah from any tobacco retailer	A tobacco bar is defined as a smoking bar including a hookah bar that, in the calendar year ending December 31, 2018, and each calendared year thereafter, generated 70 percent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors or hookah pipes, not including any sales from vending machines, and is registered with the Department. Existing hookah lounges are exempted from the 70 minimum revenue percentage as long as the business remains in its current location AND under current ownership. This policy not only applies to the sale of hookah tobacco at any location, but also to any flavored tobacco intended for onsite consumption at any tobacco bar. Further, it exempts existing hookah bars from the 70% sales requirement, which might theoretically mean that those shops could begin selling any type of flavored tobacco product as long as they still offer some (even minimal) amount of hookah smoking onsite.	Compliance is monitored by the Burbank Police Department. A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. The suspension of the license for up to 30 days for a first violation2. The suspension of the license for up to 90 days for a second violation within a five year period of the first violation3. The revocation of the license for a third violation within a five year period of the first violation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Capitola Ordinance No. 1031 Municipal Code Section 8.38.130	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: July 25, 2019 Enforced: January 1, 2020	None	No new TRL may be issued within 1,000 feet of a school and/or a public library	A violation of the provisions of this chapter within six months of the first violation will result in: <ol style="list-style-type: none">1. A fine of \$100 and the suspension of the TRL for up to 30 days for a first violation2. A fine of \$200 and the suspension for the TRL for 90 days for a second violation3. A fine \$400 and the revocation of the TRL for a third violation4. A fine of \$800 for the fourth and each subsequent violation	No
Cloverdale Municipal Code Chapter 8.08	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products (excluding menthol flavored tobacco products)	No	Adopted: December 12, 2017 Effective: November 14, 2017	Menthol tobacco products, including cigarettes, are not included in the restrictions	Smoking (including tobacco and marijuana) is prohibited in enclosed places of employment, public places, sports arenas, and multi-unit residence common areas; and unenclosed places of employment, recreational areas, service areas, outdoor dining areas, public places, and multifamily residence common areas No tobacco retailers shall sell any single cigar or any package of cigars containing fewer than five cigars (does not apply to the sale of single cigars if the price exceeds \$5) Pharmacies may not sell tobacco products	Any person or business that violates the provisions of this chapter shall be guilty of an infraction, publishable by: <ol style="list-style-type: none">1. A fine not exceeding \$100 for a first violation2. A fine not exceeding \$200 for a second violation within one year3. A fine not exceeding \$500 for each additional violation within five years	No
Contra Costa County Ordinance No. 2017-01 Municipal Code Chapter 445-2	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within 1,000 feet of schools (public and private), parks, playgrounds and libraries in the unincorporated areas of the county	All flavored tobacco products	Yes	Adopted: July 18, 2017 Effective: August 1, 2017 Enforced: January 1, 2018	Only applies to retailers within 1,000 feet of schools, parks, playgrounds and libraries	No new tobacco retail licenses may be issued in pharmacies Little cigars must be sold in packs of at least 10, and cigarillos must be sold in packs of at least 10 unless the sales price of one cigar is over \$5 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 Sets a cap on the total number of tobacco retailers Prohibits the redemption of coupons or redemptions Smoking is prohibited in specified enclosed and unenclosed areas and in all multi-unit residence areas, with some exceptions	A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">1. The suspension of the TRL for up to 30 days for a first violation2. The suspension of the TRL for up to 90 days for a second violation that occurs within five years after the first violation3. The suspension of the TRL for up to one year for a third violation and for each subsequent violation that occurs within five years after the first violation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Corte Madera Ordinance No. 983	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: March 19, 2019 Effective: April 18, 2019 Enforced: January 1, 2020	None	Prohibits the sale of: <ol style="list-style-type: none">any single cigar ,whether or not packaged for individual saleany number of cigars fewer than then number contained in the manufacturer’s original consumer packaging designed for retail saleany package of cigars containing fewer than five cigars (this does not apply to the sale of a single cigar for which the retail price exceeds \$5) No new tobacco retail licenses may be issued in pharmacies	Compliance is monitored by the Town Manager Any peace officer may enforce the penal provisions of the policy. A violation of the provisions of this chapter within a 60-month period will result in: <ol style="list-style-type: none">The issuance of a warning for a first violationThe suspension of the license for 30 days for a second violationThe suspension of the license for 90 days for a third violationThe suspension of the license for one year for a fourth violationThe revocation of a license for five or more violations	No
Culver City Ordinance No 2019-013 § 3 Municipal Code Chapter 11.15	Prohibits the sale of all flavored tobacco products, with the exception of flavored tobacco products sold in a hookah lounge, within the city limits	All flavored tobacco products	Yes	Adopted: October 17, 2019 Effective: November 27, 2020 (for all tobacco stores with a valid TRL as of October 14, 2019) May 25, 2020 (for all other tobacco retailers)	The ordinance exempts hookah lounges that have a valid tobacco retail license and continue under the same ownership and control existing as of October 14, 2019	A hookah lounge is defined as an establishment holding a valid Tobacco Retail License that: (i) exclusively occupies an enclosed indoor space and is primarily engaged in the retail sale of hookah tobacco for consumption by customers on the premises; (ii) generates more than 70% of its gross revenues annually from the sale of hookah tobacco and the rental of on-site hookahs; (iii) does not sell food or beverages for consumption on the premises; and (iv) prohibits entry to anyone under 21 years of age	Compliance shall be monitored by the Finance Department, Police Department and/or Enforcement Services Division A violation of the provisions of this chapter will result in: <ol style="list-style-type: none">The suspension of the license for 30 days for a first violationThe suspension of the license for 90 days for a second violation within five years of the first violationThe revocation of the license for a third violation within five years of the first violation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Updated 11/14/ Item 5.

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
El Cerrito Ordinance No. 2015-08 Municipal Code 6.100.160	Prohibits the sale of all flavored, non-cigarette tobacco products, including menthol flavored non-cigarette tobacco products, within the city limits	All flavored non-cigarette tobacco products (excludes menthol cigarettes)	Yes (only for non-cigarette tobacco products)	Adopted: October 2015 Effective: January 1, 2016 Enforced: October 2017	Menthol cigarettes are not included in the restrictions	<p>No new licenses may be issued to authorize tobacco retailing within 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>No new licenses may be issued to authorize tobacco retailing within 1,000 feet of another tobacco retailer (tobacco retailers already in operation are exempt)</p> <p>Single cigar sales prohibited (except single cigars over \$5), a package of cigars must have at least five cigars</p> <p>Tobacco samples & coupons prohibited (except as allowed in adult-only businesses per state and federal law)</p> <p>Hookah lounges, cigar lounges, vape shops, or similar establishments are prohibited within the city limits</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>Imitation tobacco products also included in prohibition</p>	<p>Compliance is monitored and enforced by the City’s Community Development Department, in conjunction with the El Cerrito Police Department</p> <p>A violation of the provisions of this chapter within a five year period will result in the suspension of a license for:</p> <ol style="list-style-type: none"> 1. 10 days for first violation 2. 30 days for second violation 3. 60 days for third violation 4. Upon the fourth or more violations the license shall be revoked 	Existing establishments within a certain distance of schools, youth sensitive areas and other tobacco retailers are allowed to continue to sell flavored tobacco products until January 1, 2018 but they must comply with all other TRL requirements
Fairfax Ordinance No Municipal Code Chapter 8.44	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: December 6, 2017 Effective: December 6, 2018 Enforced: January 1, 2019 Updated: September 4, 2019 Effective: September 1, 2020	None	<p>It shall be a violation to sell, offer for sale, or exchange for any form of consideration:</p> <ol style="list-style-type: none"> 1. Any single cigar, whether or not packaged for individual sale 2. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer 3. Any package of cigars containing fewer than five cigars <p>*(This does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds \$5)</p> <p>Prohibits the sale of tobacco products in pharmacies</p>	<p>Regulations shall be monitored by the Town Manger and the Marin County Tobacco Program</p> <p>A violation of the provisions of this chapter within any 60-month period may result in:</p> <ol style="list-style-type: none"> 1. A 30 day suspension of a license for a first violation of this article 2. A 90 day suspension of a license for a second violation of this article 3. A one-year suspension for a third violation of this article 4. The revocation of a license for five years for a fourth violation of this article 	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Fremont Ordinance No	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: October 8, 2019 Effective: November 7, 2019	None	Prohibits the sale of cigar packages containing fewer than 5 cigars or a single cigar (unless the retail price exceeds \$5) Requires a pack of cigars to be sold for a minimum price of \$8 Prohibits the sale of cigarette packages containing fewer than 20 cigarettes or a single cigarette Requires cigarettes to be sold for a minimum price of \$8 per pack (including tax and fees)	This ordinance will be enforced by a designee named by the city manager or a peace officer A violation of the provisions of this chapter within a 60 month period shall result in the issuance of a notice of violation and no new license may be issued to the violator for: 1. 30 days for a first violation 2. 90 days for a second violation 3. 12 months for a third violation 4. Revocation of the license for four or more violations	No
Half Moon Bay Municipal Code Section 7.60.120	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: October 2018 Effective: April 1, 2019	None	No tobacco retail permits may be issued to new or existing pharmacies (this provision effective April 1, 2019) No tobacco may be sold from a vending machine No person shall distribute free tobacco products or coupons for tobacco products	The ordinance will be enforced by the county of San Mateo, its officers, employees and agents A violation of the provisions of this chapter may result in: 1. A suspension of the license for up to 30 days for the first violation 2. A suspension of the license for no less than 30 days and up to 90 days for the second violation of the ordinance within 24 months of the first determination 3. A suspension of the license for no less than 90 days and up to one year for the third and each subsequent violation of the ordinance within 24 months of a prior determination	No
Hayward Municipal Code Sec. 10-1.2780	Prohibits the sale of flavored tobacco products with the exception of menthol flavored cigarettes within a 500-foot radius of schools (public and private kindergarten, elementary, middle, junior high or high school) for <i>new</i> tobacco retailers (established after the passage of this policy) within the city limits	All flavored non-cigarette tobacco products, (excludes menthol cigarettes)	Yes (only for non-cigarette tobacco products)	Adopted: July 1, 2014 Effective: August 1, 2014	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 schools	Prohibits the sale of cigar packages containing fewer than 5 cigars or a single cigar (unless the retail price exceeds \$5) 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, electronic smoking device lounges, and hookah bars and lounges are prohibited in all zoning districts Imitation tobacco products also included in prohibition	Regulations are enforced by the City’s Planning Director, in conjunction with the City’s Code Enforcement Division and the Hayward Police Department Any Tobacco Retail Sales Establishment that violates regulations in ordinance three times within a three-year period shall be subject to revocation of its tobacco retail license and/or its conditional use permit	Retailers selling flavored tobacco products prior to the ordinance effective date are exempt

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	/products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Hermosa Beach Ordinance No. 18-1389	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: January 8, 2019 Effective: June 1, 2019	None	Tobacco retailers must be located at least 500 feet from a youth-populated area No license may be issued to authorize tobacco retail licensing at farmers’ markets, special temporary events, or mobile carts A TRL may not be issued to a pharmacy No TRL may be issued for businesses licensed to serve alcohol Minimum pack size requirement of 20 for little cigars	Compliance checks shall be conducted by any member of the Hermosa Beach Code Enforcement Department, Police Department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County Sheriff’s Department, or their designees Tobacco Retailer’s license shall be suspended or revoked for a violation of any provision of this chapter	No
Lafayette Ordinance No. 675	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: May 28, 2019 Effective: August 26, 2019	None	No tobacco retailer shall: 1. honor a redeem a coupon to allow a consumer to purchase tobacco for less than full price 2. sell a tobacco product through a multiple-package discount or for less than the full retail price 3. provide free or discounted items to a consumer Prohibits the sale of tobacco products in pharmacies The total number of tobacco retailer licenses within the city is limited to 1 for each 2,500 inhabitants of the city All tobacco sales shall be conducted in-person and tobacco products may not be delivered to the consumer	Compliance will be monitored by an agency or department designated by the city manager, or a peace officer Any violation of the TRL within a 5-year period may result in: 1. The suspension of a license for 30 days for a first violation 2. The suspension of a license for 90 days for a second violation 3. The suspension of a license for up to one year without the possibility for renewal for a year for a third violation 4. The revocation of a license for the fourth or more violations	Some tobacco retailers operating lawfully at the date of this chapter may apply for an additional 180 days before terminating sale of flavored tobacco products
Larkspur Ordinance No. 1037	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: April 3, 2019 Effective: May 3, 2019 Enforced: January 1, 2020	None	Establishes a minimum pack size of five for cigars, little cigars and cigarillos and prohibits the sale of a single cigar or any number of cigars fewer than the number contained in the original packaging (this does not apply to the sale of a single cigar for over \$5) Prohibits the sale of tobacco products in pharmacies	Compliance will be monitored by the City Manager and the Marin County Tobacco Program Any violation of the TRL within a 60-month period may result in: 1. A warning for a first violation 2. The suspension of a license for 30 days for a second violation 3. The suspension of a license for 90 days for a third violation 4. The suspension of a license for one year for a fourth violation 5. The revocation of a license for the fifth or more violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Livermore Ordinance No. 2088	Prohibits the sale of all electronic smoking devices and other flavored tobacco products, including menthol flavored tobacco products, within the city limits	All electronic smoking devices and other flavored tobacco products	Yes	Adopted: July 8, 2019 Effective: August 7, 2019 Enforced: January 1, 2020	None	The sale of electronic smoking devices or electronic smoking device fluid is prohibited No tobacco retailing license shall be issued or existing license renewed within 1,000 feet of a youth populated area	Compliance shall be monitored by the Livermore Police Department or any other City designee Any violation of the TRL within a 5-year period may result in: <div><div>1. The suspension of a license for 30 days for a first violation</div><div>2. The suspension of a license for one year for a second violation</div><div>3. The revocation of a license for a third or more violations</div></div> The licensee may request an alternative to these penalties for a first or second violation of this chapter, which includes: <div><div>1. The cessation of all tobacco retailing and removal of all tobacco products from public view for one day, a payment of \$1,000, and the admission that the violation occurred for the first violation</div><div>2. The cessation of all tobacco retailing and removal of all tobacco products from public view for 10 days, a payment of at least \$5,000, and the admission that the violation occurred for the second violation</div></div>	No
Los Angeles County Ordinance No.	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the county	All flavored tobacco products	Yes	Adopted: October 1, 2019 Effective: November 1, 2019 Enforced: May 4, 2020	None	Establishes a minimum pack size of 20 for little cigars or cigarillos, and these products may not be sold individually Prohibits the sale of tobacco products in pharmacies Tobacco shops are required to have a tobacco retail license and a tobacco business license to sell tobacco products	Compliance shall be monitored by the Los Angeles County Department of Public Health or any law enforcement officer Any violation of the TRL within a 5-year period may result in: <div><div>1. The suspension of the license for up to 30 days for a first violation</div><div>2. The suspension of the license for up to 90 days for a second violation</div><div>3. The suspension of the license for up to 120 days for a third violation</div><div>4. The revocation of the license for a fourth violation</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Los Gatos Ordinance No. 2259	Limits the sale of flavored tobacco products, including menthol flavored tobacco, to adult-only tobacco stores within the city limits	All flavored tobacco products	Yes	Adopted: May 16, 2017 Effective: January 1, 2018	Ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales, do not allow anyone under 21, do not sell food or alcoholic beverages for consumption on the premises, and post a sign outside saying that minors are prohibited	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 Limits storefront advertising to no more than 15% of the window and clear doors	Compliance will be monitored by the Town or its Designee; a peace officer may enforce the provisions in this policy Any violation of the TRL within a 12-month period may result in: 1. A fine not to exceed \$100 for a first violation 2. A fine not to exceed \$200 for a second violation 3. A fine not to exceed \$500 for each additional violation For any violation of the TRL within a 24-month period, permit suspension includes: 1. Permit suspension for up to 30 calendar days for a first violation 2. Permit suspension for up to 90 calendar days for a second violation 3. Permit suspension for up to one year for each additional violation	No
Manhattan Beach Ordinance No. 19-0016-U Municipal Code 4.118.030	Prohibits the sale of all electronic smoking devices and other flavored tobacco products, including menthol flavored tobacco products, within the city limits	All electronic smoking devices and other flavored tobacco products	Yes	Adopted: December 2015 Effective: January 1, 2016 Updated to Include Menthol: November 5, 2019	None	No tobacco retailer permit may be issued within 500 feet of a school or an existing retailer	The retail permit may be revoked or suspended for two or more violations within a 36-month period	No
Marin County Ordinance No. 3698	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the county	All flavored tobacco products	Yes	Adopted: November 6, 2018 Effective: December 5, 2018 Enforced: July 1, 2019 (Non-Tobacco Stores) July 1, 2020 (Tobacco Stores)	None	It is unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products in the unincorporated area of the county without first obtaining and maintaining a valid tobacco retailer's license from the County of Marin for each location where these sales are conducted	Enforcement shall be conducted by the Marin County Dept. of Health and Human Services A violation of the provisions of this chapter may result in: 1. An administrative citation and fine not less than \$200 for a first violation 2. An administrative citation and fine not less than \$500/violation for subsequent violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Mono County Ordinance No. 18-03 Municipal Code 7.92.070	Prohibits the sale of all flavored e-liquids, including menthol flavored e-liquids, within the unincorporated areas of the county	All flavored e-liquids (excludes all other flavored tobacco products)	Yes (only for menthol-flavored e-liquids)	Adopted: April 17, 2018 Effective: May 17, 2018	Does not include flavored tobacco products other than e-liquids	Prohibits smoking in all areas where smoking is prohibited by state or federal law, as well as county vehicles, public parks recreational areas, service areas, dining areas and public places when used for a public event Smoking may not occur closer than 20 feet outside any enclosed area and from entrances, windows, or ventilation systems * Limited flavored e-liquid sales policy is set to sunset in October 2019 and a complete ban on all flavored tobacco and menthol products will become effective Policy is not attached to a TRL	The Mono County Public Health Director or his/her designee is authorized to enforce this ordinance and to refer enforcement to the Mono County Code Compliance Division Any person or business found in violation of any provision of this Chapter shall be guilty of an infraction and subject to a fine of: 1. \$100 for the first violation 2. \$200 for the second violation 3. \$500 for any subsequent violation	No
Novato Ordinance No. 1615 Municipal Code 7-8	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products, including marijuana (excludes menthol flavored tobacco products)	No	Adopted: January 31, 2017 Effective: January 1, 2018 Enforced: January 1, 2019	Menthol tobacco products are not included in the prohibition Flavored tobacco products may be sold if the product is: 1. a package of cigars containing at least five 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: 1. A single cigar (unless the price of the single cigar exceeds \$5) 2. 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 Policy includes flavored marijuana	Compliance will be monitored by the Department or other designated agency Any violation of this chapter within a 60-month period may result in: 1. A warning for a first violation 2. The suspension of a license for 30 days for a second violation 3. The suspension of a license for 90 days for a third violation 4. The suspension of a license for one year for a fourth violation 5. The revocation of a license for the fifth or more violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Oakland Municipal Code 5.91	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores within the city limits	All flavored tobacco products	Yes	Adopted: September 19, 2017 Effective: July 1, 2018	Flavored tobacco products may still be sold in adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow minors under the age of 18 unless accompanied by a parent or legal guardian, and do not sell food or alcoholic beverages	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	The City designates the Oakland Police Department to enforce this Ordinance A violation of this Chapter at a location within any 60-month period may result in: <ol style="list-style-type: none">1. An agreement to stop acting as a Tobacco Retailer for at least one day and a settlement payment to the City of at least \$1,000 for a first violation2. An agreement to stop acting as a Tobacco Retailer for at least ten days and a settlement payment to the City of at least \$5,000 for a second violation3. No new license may be issued until five years have passed from the date of the violation for a third or subsequent violation	No
Palo Alto Ordinance No. 5418 Municipal Code 4.64.030	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores within the city limits	All flavored tobacco products	Yes	Adopted: October 2, 2017 Effective: January 1, 2019	Ordinance exempts adult-only tobacco stores which generate over 60% of gross income from tobacco sales and tobacco paraphernalia, do not allow anyone under 21, do not sell food or alcoholic beverages for consumption on the premises, and post a sign outside saying that minors are prohibited	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	Compliance will be monitored by the City or its Designee, and any peace officer may enforce the penal provisions of the ordinance A violation of the provisions of this chapter may result in: <ol style="list-style-type: none">1. A fine not to exceed \$100 (within a 12-month period) and a suspension up to 30 days (within any 24-month period) for a first violation2. A fine not to exceed \$200 (within a 12-month period) and a suspension of the retailer permit for up to 90 days (within any 24-month period) for a second violation3. A fine not to exceed \$500 (within a 12-month period) and the suspension of the retailer permit for up to one year (within any 24-month period) for each additional violation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Portola Valley Ordinance No. 2018-425	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: September 12, 2018 Effective: October 11, 2018 Enforced: January 1, 2019	None	No existing or new pharmacies may sell tobacco products	Compliance monitored will be conducted through the Environmental Health Division of San Mateo County Health Department Penalties for violation of this ordinance include: <ol style="list-style-type: none">1. The suspension of the TRL for up to 30 days and a fine not exceeding \$100 for the first violation2. The suspension of the TRL for no less than 30 days and up to 90 days and a fine not exceeding \$200 for the second violation within 24 months of the first violation3. The suspension of no less than 90 days and up to one year of the TRL and a fine not exceeding \$500 for the third violation and subsequent violations	No
Redondo Beach Ordinance No. O-3194-19	Prohibits the sale of all flavored tobacco products, with the exception of hookah sold in licensed hookah businesses, within the city limits	All flavored tobacco products	Yes	Adopted: October 15, 2019 Effective: November 14, 2019	The ordinance exempts licensed hookah business that permits only patrons twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location	To meet the qualifications for the exemption, a licensed hookah business must only permit patrons 21 years of age or older, or active duty military personnel who are 18 years of age or older, to enter the location where the tobacco product may be consumed or purchased	Compliance will be monitored by the Chief of Police and other designated enforcement officials Penalties for violation of this ordinance include: <ol style="list-style-type: none">1. The suspension of the license for 60 days for the first violation2. The suspension of the license for 90 days for the second violation3. The revocation of the license for the third violation	No
Richmond Ordinance No. 20-18 N.S. Municipal Code 7.106	Prohibits the sale of all electronic smoking devices and other flavored tobacco products, including menthol flavored tobacco products, within the city limits	All electronic smoking devices* and other flavored tobacco products *until approved by the FDA	Yes	Adopted: July 17, 2018 Effective: April 17, 2019 E-cigarette ban adopted: September 10, 2019 E-cigarette ban Enforced: January 1, 2020	None	No e-cigarettes may be sold in stores and online with the city The ordinance establishes a minimum pack-size of 20 cigars and cigarillos, except for single cigars that sell for more than \$5 each, and prohibits the sale of any single little cigar or cigar Prohibits new tobacco retailers from opening within 500 feet of existing tobacco retailers and 1,000 feet from a school, park, playground or library	Compliance will be monitored by the Richmond Police Department A tobacco retail license shall be revoked if the licensee, or any of the licensee’s agents or employees, has violated any of the requirements, conditions, or prohibitions in the municipal code. The enforcement agency may also enforce through administrative fines	Existing tobacco retailers not in line with the distance requirement for tobacco retailers from schools and other tobacco retailers are grandfathered in unless the business changes ownership

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Sacramento Ordinance No. 2019-0012	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: April 16, 2019 Effective: January 1, 2020	None	No new tobacco retail licenses shall be issued or existing licenses renewed to authorize tobacco retailing within 1,000 feet of another tobacco retailer	Penalties for violation of ordinance within a 5 year period include: <div><div>1. The suspension of a license for 30 days for a first violation</div><div>2. The suspension of a license for 90 days for a second violation</div><div>3. The revocation of a license for a third violation</div></div> Any person violating the provisions of this chapter shall also be liable for civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues	No
San Anselmo Ordinance No.	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: March 26, 2019 Effective: April 25, 2019 Enforced: January 1, 2020	None	The ordinance establishes a minimum pack-size of 5 cigars, little cigars and cigarillos, except for single cigars that sell for more than \$5 each, and prohibits the sale of any single cigar, little cigar or cigar No existing or new pharmacies may sell tobacco products	Compliance will be monitored by the Finance Department, a designee or a peace officer Penalties for violation of this ordinance within a 60-month period include: <div><div>1. The issuance of a warning for a first violation</div><div>2. The suspension of a license for 30 days for a second violation</div><div>3. The suspension of a license for 90 days for a third violation</div><div>4. The suspension of a license for one year for a fourth violation</div><div>5. The revocation of a license for the fifth or more violations</div></div>	No
San Carlos Ordinance No. 1544	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: April 8, 2019 Effective: May 8, 2019	None	No existing or new pharmacies may sell tobacco products Flavor Policy is not tied to a TRL	The City Manager or designee may enforce this chapter.	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered	Menthol Included	Effective date	Exemptions	Notes	Enforcement	Grandfathering
San Francisco Ordinance No. 140-17	Prohibits the sale of all electronic smoking devices and other flavored tobacco products, including menthol flavored tobacco products, within the county limits	All electronic smoking devices* and other flavored tobacco products *until approved by the FDA	Yes	Adopted: June 27, 2017 Referendum Vote: June 5, 2018 Effective: July 20, 2018 Enforced: January 1, 2019	None	No e-cigarettes may be sold in stores and online with the county No new permit shall be issued in any supervisorial district that has 45 or more Establishments with Tobacco Sales permits No new permit shall be issued if the Applicant will be within 500 feet of the nearest point of the property line of a school No new permit shall be issued if the Applicant will be located within 500 feet of the nearest point of the property line of an existing tobacco retailer No existing or new pharmacies may sell tobacco products	Compliance will be monitored through the Director of Health or his or her designee For a violation of the ordinance, the Director of Health may suspend a Tobacco Sales Permit: <div><div>1.</div><div>For a maximum of 90 days of the first violation</div><div>2.</div><div>For a maximum of six months for a second violation that occurs within the first 12 months of the first violation</div><div>3.</div><div>For a maximum of one year for a third violation if within 12 months of the prior violation</div></div>	No
San Leandro Municipal Code 4-36	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits (including flavored products that do not contain nicotine)	All flavored tobacco products (excluding menthol tobacco products)	No	Adopted: October 16, 2017 Effective: August 15, 2018	Menthol tobacco products are not included in the prohibition Wholesale companies are excluded from the ordinance if the tobacco products made or distributed in San Leandro are sold by retailers outside the city	No tobacco retailer shall sell, offer for sale, or exchange any <div><div>1.</div><div>Single cigar</div><div>2.</div><div>Any pack of cigars at a price that is less than \$7.00 per five cigars (does not apply to the sale or offer for sale of a single cigar for which the retail price exceeds either five dollars or the dollar amount adopted by resolution of the City Council and adjusted from time to time, whichever is higher)</div></div>	Compliance will be monitored by the San Leandro Police Department Penalties for violation of this ordinance within a 36 month period include: <div><div>1.</div><div>A written warning and 30 days to correct violation for the first violation</div><div>2.</div><div>A \$2,500 fine for a second violation</div><div>3.</div><div>A 20 day license suspension for a third violation</div><div>4.</div><div>After four or more violations, the license shall be revoked and no new license may issue for the location or tobacco retailer until three years have passed from the date of revocation</div></div>	No
San Mateo County Ordinance No. 4799 Municipal Code 7.41	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the county	All flavored tobacco products	Yes	Adopted: June 19, 2018 Effective: July 19, 2018 Enforcement: January 1, 2019	None	No existing or future pharmacies may sell tobacco products	Compliance will be monitored through the Environmental Health Division of San Mateo County Health Department Penalties for violation of ordinance include: <div><div>1.</div><div>A suspension of the TRL for up to 30 days and a fine not exceeding \$100 for the first violation</div><div>2.</div><div>A suspension of the TRL for no less than 30 days and up to 90 days and a fine not exceeding \$200 for the second violation within 24 months of the first violation</div><div>3.</div><div>A suspension of no less than 90 days and up to one year of the TRL and a fine not exceeding \$500 for the third violation and subsequent violations</div></div>	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
San Pablo Ordinance No. 2018-006 Municipal Code 5.06	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: December 17, 2018 Effective: March 2019	None	Requires a minimum pack size for cigars (6 per pack), cigarillos (25 per pack) and little cigars (20 per pack) Requires a minimum price of \$10.00 per cigar	Penalties for violation of ordinance within any 60-month period include: <ol style="list-style-type: none">1. A suspension of the license for up to 30 days for a first violation. At the election of the tobacco retailer, the tobacco retailer may pay a penalty of \$1000 in lieu of such suspension2. A suspended of the license for one year for a second violation3. The revocation of the license for and the proprietor or proprietors who had been issued the license shall never again be issued a tobacco retailer’s license pursuant to this chapter for the third and subsequent violations	No
San Rafael Ordinance No. 1970 Municipal Code Chapter 8.15	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: June 3, 2019 Effective: January 1, 2021	None	No person shall place any advertisement or promotion of tobacco products within 500 feet of an elementary, secondary or high school, public playground or public park unless the tobacco product is located inside a commercial establishment, on a vehicle, on a sign located inside or immediately outside a commercial establishment, or on tobacco packaging No existing or future pharmacies may sell tobacco products	Compliance will be monitored through the Director of Community Development or designee Penalties for violation of ordinance within any 12-month period include: <ol style="list-style-type: none">1. The suspension of a license for 90 days unless the permittee submits a training plan for the training of all sales employees in the law pertaining to the sale, advertising, and display of tobacco products to minor, and the permittee files satisfactory evidence that the training in the training plan has been completed for a first violation2. The suspension of a license for 120 days for a second violation3. The suspension of a license for one year upon each subsequent violation A license shall be revoked after not less than 10 days’ notice if one or more of the bases for denial of a permit exists	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Santa Clara County Ordinance No. NS-300.883	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores in the unincorporated areas of the County	All flavored tobacco products	Yes (revised in 2016 to include menthol)	Adopted: June 2010 Effective: February 2015 Amended: October 2016 Amended 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 No TRLs may be issued to a retailer within 1,000 feet of a school (existing retailers exempt) No TRLs may be issued to a retailer located within 500 feet of another retailer (existing retailers exempt)	Compliance shall be monitored by the Department of Environmental Health Penalties for violations of this ordinance within a 12-month period include: 1. A fine not to exceed \$100 for the first violation within a 12-month period and a license suspension for up to 30 days within any 24-month period 2. A fine not to exceed \$200 for a second violation within a 12-month period and a license suspension for up to 90 days within any 24-month period 3. A fine not to exceed \$500 for each additional violation within a 12-month period and a license suspension for up to one year for each additional violation within any 24-month period	No
Santa Cruz Ordinance No. 2018-19 Municipal Code 6.07	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: November 27, 2018 Effective: June 11, 2019 Enforced: January 1, 2020	None	No license shall be issued to authorize tobacco retailing that is within six hundred feet of a high-risk alcohol outlet No license shall be issued to authorize tobacco retailing that is within that is within one thousand feet of a school *This prohibition shall not apply to a license applicant whose application seeks authorization to conduct tobacco retailing at a location where such retailing was taking place as of January 1, 2014, and has continued without interruption at that location since May 8, 2014	Every violation of this chapter determined to be an infraction is punishable by: 1. A fine not exceeding \$100 for a first violation and a license suspension for up to 60 days 2. A fine not exceeding \$200 for a second violation and the suspension of a license for 120 days 3. A fine not exceeding \$500 for a third and each additional violation and the suspension of a license for 180 days 4. The tobacco retailer’s license shall be revoked, and no new license may be issued for the location until five years have passed from the date of revocation upon the fourth and each subsequent violation	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Santa Cruz County Ordinance No.5300 Municipal Code Chapter 5.60	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: June 11, 2019 Effective: January 1, 2020	None	No new license shall be issued to authorize tobacco retailing that is within six hundred feet of a youth-populated area (private or public kindergarten, elementary, middle, junior high, or high school)	Compliance shall be monitored by the Santa Cruz County Health Services Agency or any law enforcement officer Penalties for violations of this ordinance within any 60-month period include: 1. The suspension of a license for 60 days for a first violation 2. The suspension of a license for 120 days for a second violation 3. The suspension of a license for 180 days for a third violation 4. The revocation of a license for a fourth violation, and no new license shall be issued for five years	No
Saratoga Municipal Code 4-90	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products (excluding menthol flavored tobacco products)	No	Adopted: October 3, 2018 Effective: November 17, 2018	Menthol flavored tobacco products are not included in the policy	No tobacco retailer permit tobacco may be issued to a licensed pharmacy No tobacco retailers established after September 16, 2016 shall be granted a tobacco retailer license for a location which is within 500 feet of another retailer or within 1000 feet of an elementary, middle, or high school or a City park No tobacco product or paraphernalia may be sold from a vending machines	Penalties for violations of this ordinance within a 24 month period include: 1. The suspension of an existing license for up to 60 days from the date of the citation issuance for a first violation 2. The revocation of any existing license shall for up to 24months from the date of the administrative citation issuance for a second or subsequent citation	No
Sausalito Ordinance No. 1264	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All flavored tobacco products	Yes	Adopted: July 2018 Effective: November 1, 2018	None	Ordinance amends city’s current “Clean Indoor Air and Health Protection” municipal code chapter to add “Tobacco Retail License Requirement and Prohibit the Sale of Flavored Tobacco Products” Smoking is prohibited in all enclosed places of employment, public places, recreational areas, common areas Smoking is prohibited in all unenclosed places of employment, recreational areas, services areas, dining areas, common areas that meet certain requirements Smoking restrictions included for multi-unit housing complexes and rental units	Anyone who violates a provision in this chapter will be deemed guilty of an infraction The City may seek the revocation or suspension of a tobacco retailer’s license	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Sonoma Ordinance No. 04-2015 Municipal Code 7.25	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products (excluding menthol flavored tobacco products)	No	Adopted: June 1, 2015 Effective: September 1, 2015 Enforced: September 1, 2015	Menthol flavored tobacco products are not included in the policy Flavored tobacco products may still be sold if <ol style="list-style-type: none">the tobacco product consists of a package of cigars that contains at least five cigarsa single cigar for which the retail price exceeds \$5the tobacco product consists of pipe tobaccothe package of chewing tobacco or snuff contains at least five units or more	It is a violation to sell any single cigar (unless the retail price of the cigar exceeds \$5) and a package of cigars containing fewer than five cigars or the number of cigars contained in the manufacture’s original consumer packaging Limits the eligibility of retailers permitted to apply for a tobacco retail license	Decoy enforcement operations conducted annually by Sonoma Police Department Penalties for violations of this ordinance within a 60-month period include: <ol style="list-style-type: none">The suspension of a license for 30 days for a first violationThe suspension of a license for 90 days for a second violationThe suspension of a license for one year for a third violationThe revocation of a license for a fourth or subsequent violations Violations of this chapter are subject to a civil action punishable by a fine not less than \$250 and not exceeding \$1,000 per violation	No
South San Francisco Ordinance No. 1455	Limits the sale of flavored tobacco products, including menthol flavored tobacco products, to adult-only tobacco stores in the city limits	All electronic smoking devices and other flavored tobacco products	Yes	Adopted: October 9, 2019 Effective: January 1, 2020	Ordinance exempts adult-only retailer stores, significant tobacco retailers lawfully established before the effective date of the ordinance, and hookah bars and smoking lounges	No tobacco retailer permit tobacco may be issued to a licensed pharmacy or renewed by an existing pharmacy Significant tobacco retailers are prohibited in all zones throughout the city	The City Manager or his or her designee may enforce the provisions of this ordinance	No
Watsonville	Prohibits the sale of all electronic smoking devices and other flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas	All electronic smoking devices and other flavored tobacco products	Yes	Adopted: October 22, 2019 Effective: November 23, 2019	None	No tobacco retailer permit tobacco may be issued to a licensed pharmacy or renewed by an existing pharmacy	Penalties for violations of this ordinance include: <ol style="list-style-type: none">The suspension of a license for up to 60 days for a first violationThe suspension of a license for 120 days for a second violation within 60 months of the first determinationThe suspension of a license for 180 days for a third violation within 60 months of the prior determinationThe revocation of a license for a fourth or subsequent violations within 60 months of the prior determination	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
West Hollywood Ordinance No. 16-991 Municipal Code 5.114	Prohibits the sale of all tobacco products within 600 feet of a youth-populated area (school, youth center, child-care facility, etc.) within the city limits	All tobacco products	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 may still sell all tobacco products regardless of location	Policy includes a ban on the sale of all tobacco products within 600 feet of youth populated areas 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	Yes, existing retailers operating prior to May 1, 2016 are grandfathered regardless of any change or transfer of ownership of the business
Windsor Ordinance No. 2018-323 Municipal Code 3-11-115	Prohibits the sale of all flavored tobacco products, with the exception of menthol flavored tobacco products, within the city limits	All flavored tobacco products (excludes menthol tobacco products)	No	Adopted: March 7, 2018 Effective: April 6, 2018 Enforcement: July 30, 2018	Menthol flavored tobacco products are not included in the policy Tobacco retailers may sell flavored tobacco products if: <ol style="list-style-type: none">1. The tobacco product consists of a package of cigars containing at least five cigars or little cigars2. The tobacco product is a single cigar for which the retail price exceeds \$5.003. The tobacco product consists of pipe tobacco4. The package of chewing tobacco or snuff contains at least five units	No tobacco retailer shall sell to a consumer: <ol style="list-style-type: none">1. A package of cigarettes at a price that is less than \$7.00 per package of twenty 20 cigarettes, including all applicable taxes and fees2. A package of little cigars that is less than \$7.00 per package of five little cigars, including all applicable taxes and fees3. A package of cigars that is less than \$7.00 per five cigars, including all applicable taxes and fee.4. A package of chewing tobacco or snuff that is less than \$7.00 per package of five units It shall be a violation of this chapter for any licensee or any of the licensee's agents or employees to sell, offer for sale, or exchange for any form of consideration: <ol style="list-style-type: none">1. Any single cigar or little cigar, whether or not packaged for individual sale;2. Any number of cigars or little cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer;3. Any package of cigars or little cigars containing fewer than five cigars.4. Any package of chewing tobacco or snuff containing fewer than five units. *This section shall not apply to the sale or offer for sale of a single cigar for which the retail price exceeds \$5.00 No license may be issued to authorize tobacco retailing within 1,000 feet of a school (unless the retailer was operating before the date of the ordinance codified in this chapter) Limits the eligibility of retailers permitted to apply for a tobacco retail license	The policy will be enforced by the County of Sonoma Department of Health Services Penalties for violations of this ordinance within a 60-month period include: <ol style="list-style-type: none">1. The suspension of a license for 30 days for a first violation2. The suspension of a license for 90 days for a second violation3. The suspension of a license for one year for a third violation4. 4. The revocation of a license for four or more violations	No

California Flavored Tobacco and Menthol Cigarette Policy Matrix

Jurisdiction	Extent of Policy	Products Covered by Policy	Menthol Included	Effective Date	Exemptions	Notes	Enforcement	Grandfathering
Woodland Ordinance No. 1652	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the city limits	All tobacco products	Yes	Adopted: November 5, 2019 Effective: April 1, 2020	None	Only existing tobacco retailers are eligible for a tobacco license	A tobacco retail license shall be revoked for a violation of this ordinance. After a license is revoked, a new permit may be issued <div><div>1.</div><div>After 10 days have passed from the date of the revocation for a first violation within any 60 month period</div><div>2.</div><div>After 90 days have passed from the date of the revocation for a second violation within any 60 month period</div><div>3.</div><div>After a year has passed from the date of the revocation for a third violation within any 60 month period</div><div>4.</div><div>After 5 years have passed from the date of the revocation for the fourth or more violations within any 60 month period</div></div>	No
Yolo County Ordinance No. 1474 Municipal Code 6-15.10	Prohibits the sale of all flavored tobacco products, including menthol flavored tobacco products, within the unincorporated areas of the County	All flavored tobacco products	Yes	Adopted: October 2016 Effective: May 1, 2017	None	Only existing tobacco retailers are eligible for a tobacco license	Yolo County District Attorney is authorized to perform stings for any violations of the TRL A tobacco retail license shall be revoked for a violation of this ordinance. After a license is revoked, a new permit may be issued <div><div>1.</div><div>After 10 days have passed from the date of the revocation for a first violation within any 60 month period</div><div>2.</div><div>After 90 days have passed from the date of the revocation for a second violation within any 60 month period</div><div>3.</div><div>After a year has passed from the date of the revocation for a third violation within any 60 month period</div><div>4.</div><div>After 5 years have passed from the date of the revocation for the fourth or more violations within any 60 month period</div></div>	No



acscan.org

October 24, 2019

Oroville City Hall
1735 Montgomery Street
Oroville, CA 95965

Re: Support—Ordinance to prohibit the sale of all flavored tobacco products

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. 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



acscan.org

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. 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,

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



November 12, 2019

RE: City of Oroville Proposed Flavored Tobacco Ban

Dear Mr. Ervin,

Thank you for meeting APCA representatives concerning the City of Oroville's proposed flavored tobacco ban ordinance. As you saw at the meeting the Commissioners, Retailers and customers are opposed to this Ordinance. We write on behalf of the American Petroleum and Convenience Store Association (APCA). APCA represents several licensed tobacco retailers in Oroville. Our members include convenience stores, gas stations and liquor stores located throughout the City.

Tobacco sales are an important component to the overall viability of our businesses – not because we make a lot of money selling tobacco – we don't. Tobacco sales drive ancillary sales of gas, food and other items sold at our stores and gas stations. If we lose the ability to sell flavored tobacco products, our customers will go elsewhere to buy gas, food, and snacks – everything they currently buy in our stores. Tobacco Sales should be not limited to few Tobacco stores. Tobacco sales consists of 25-35% of our ancillary sales for all convince stores and would greatly impact our businesses.

Banning legal products at licensed retail locations would undermine the city's and the state's tobacco retail licensing program which has successfully limited youth access to tobacco, protected consumers from adulterated products and given government tools for enforcement. Moreover, local bans on tobacco products creates an illicit market. In localities with flavored tobacco bans, single menthol cigarettes are being sold illegally on the street for \$1.00 - \$2.00. That is an enormous profit margin driving illegal sales in those locales.

As you see with information enclosed, the impact of flavor ban hurts retailers, decreases local tax revenue; which helps to pay for community services and creates an illegal market; granting our youth to easier access to tobacco products.

We believe that city of Oroville should wait on the state to develop and implement a comprehensive solution to this issue. It is our understanding after attending a hearing about this issue, Assembly member Adam Gray along with several of his colleagues plan to introduce a bill that will address the concerns of many cities throughout the state of California. As retailers we take our responsibility seriously and make it a point to check IDs to ensure that youth do not have access to Tobacco products. Assembly member Gray released a report stating that 94.5% of retailers have been checking IDs and not selling to minors. Given this data and the high rate of compliance by licensed tobacco retailers, we ask that any city policy related to flavored tobacco sales ban Mr. Grey is collecting data for a full state action.



As retailers with ties to the community of Oroville, we would welcome the opportunity to work with the City, local Health and Education Stakeholders about educating the youth and their families about the danger of Tobacco usage. As stakeholders it is critical that we build strong relationships to ensure that we are preventing youth from accessing Tobacco products and at the same time protecting the rights of adult (over 21) consumers. We would support the city in efforts to place a moratorium on new Tobacco licenses in the city until state mandates have been put in place and punishing retailers who violate the law with stiffer fines.

We appreciate your considerations of our comments and look forward to creating a partnership to keep our community and youth safe while protecting the local small business community.

Thank you for your continuous support.

Sincerely,

Porsche Middleton

CEO, APCA

Wes Ervin

From: kavinder chatkara <kinnychatkara@gmail.com>
Sent: Tuesday, November 12, 2019 3:18 PM
To: Kinny Chatkara; Porsche; Wes Ervin
Subject: Tobacco Flavor Ordinance nov 2019

Hello Wes, 11/12/2019
Hope all is well, it was nice meeting you yesterday with Porsche concerning the City of Oroville, Tobacco Ordinance. Here are some of the key points to keep in mind among those we spoke yesterday.

We provided 92 opposition letters for Consumers, Residents, Retailers and Visitors to City of Oroville which impacts the revenue and services to all stakeholders.

1. Since 2016, the legal age to purchase all tobacco products in California including vaping devices has been 21 (except for active military with valid ID)
2. Raising the age to purchase all tobacco products to 21 ensures that teens who may turn 18 while still in high school can no longer purchase tobacco products for their underage friends thereby cutting off the most common social source for tobacco products.
3. All tobacco products, including vape products are required to be behind the counter and not available to any customers without the assistance of a sales clerk.
4. Many of our members have invested in age verification software that provides sales clerks with an additional tool to verify the customer's identity and age.
5. Licensed tobacco retailers are subject to regular compliance and sting operations to ensure that tobacco and alcohol are not sold to minors.
6. Banning flavored tobacco products at licensed tobacco retailers will push these sales onto the Internet or into the illicit market where no one checks ID's and products may be counterfeit.
7. State wide data collected by the Department of Public Health show that teens use of combustible tobacco products have dropped to historic lows — smoking is no longer cool. Banning traditional tobacco products will do nothing to address the vaping issue and will deprive adult consumers of products they legally purchase in our stores.
8. Traditional tobacco products such as menthol cigarettes, wintergreen chewing tobacco, snus, and cigars are not being used by minors and should not be included in any sales ban that is targeted to reduce teen vaping

Thank you for all your support in listening to the concern of local retailers and helping them save their businesses and continue providing sales tax revenues to City of Oroville.

We will be sending you additional information soon. Thank you

Sincerely,

Kavinder (Kinny) K. Chatkara, Pres
Apcsa Sacramento Chapter

Impact on sales from Tobacco Flavor Ban , please protect the rights of adult consumers and help educate the youth from the danger of Tobacco use.

OAKLAND FLAVOR BAN IMPACT

Oakland Flavor Ban	Average Before	Average After	Difference	Percentage
	Ban	Ban		Drop
Fuel Sales (gallons)	72,069	63,531	(8,538)	-11.85%
Cigarettes & OTP	29,323	14,088	(15,235)	-51.96%
Total Store Sales	74,374	59,148	(15,226)	-20.47%
Lottery				
Scratchers	13,890	11,883	(2,007)	-14.45%
Online	1,977	1,219	(759)	-38.37%
Total Lottery	15,867	13,102	(2,766)	-17.43%
Store Transactions	22,775	18,930	(3,845)	-16.88%



CITY OF OROVILLE STAFF REPORT

TO: MAYOR REYNOLDS, COUNCIL MEMBERS AND CITY ADMINISTRATOR LAGRONE

FROM: JOE DEAL, PUBLIC SAFETY DIRECTOR

RE: ADOPTION OF BUTTE COUNTY LOCAL HAZARD MITIGATION PLAN

DATE: JANUARY 07, 2020

SUMMARY

The Council will consider adopting the Butte County Local Hazard Mitigation Plan.

DISCUSSION

During disasters or large-scale incidents, the Butte County Office of Emergency Management (OEM) coordinates the overall response through the Emergency Operations Center (EOC). When activated, the EOC provides a central location for responding and supporting agencies to collaborate response and recovery efforts in order to effectively and efficiently provide information and deploy resources. In non-disaster times the Butte County OEM supports and coordinates disaster planning, community preparedness, mitigation, and training.

In order to remain eligible for FEMA hazard mitigation assistance, FEMA requires that local governments adopt, then update a hazard plan every five years. The Butte County Hazard Mitigation Plan (<http://www.buttecounty.net/oem/mitigationplans>) provides a framework to reduce the impacts of natural disasters on our people, places, and economy.

The City of Oroville participated in the mitigation planning process to prepare this local hazard mitigation plan and the California Office of Emergency Services and Federal Emergency Management Agency officials have reviewed the Butte County Local Hazard Mitigation Plan and approve it contingent upon official adoption by the Council, which will demonstrate the City's commitment to fulfilling the mitigation goals and objectives outlined within the plan.

FISCAL IMPACT

None

RECOMMENDATION

Staff recommends the adoption of the Butte County Local Hazard Mitigation Plan.

ATTACHMENTS

- A. Resolution No. XXXX
- B. Local Hazard Mitigation Plan; Annex D – City of Oroville

**CITY OF OROVILLE
RESOLUTION NO. 8828**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA,
ADOPTING THE BUTTE COUNTY LOCAL HAZARD MITIGATION PLAN**

WHEREAS, The City of Oroville recognizes the threat that natural hazards pose to people and property within our community; and

WHEREAS, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS, the U.S. Congress passed the Disaster Mitigation Act of 2000 ("Disaster Mitigation Act") emphasizing the need for pre-disaster mitigation of potential hazards; and

WHEREAS, the Disaster Mitigation Act made available hazard mitigation grants to state and local governments; and

WHEREAS, an adopted Local Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS, the City of Oroville fully participated in the FEMA-prescribed mitigation planning process to prepare this local hazard mitigation plan; and

WHEREAS, the California Office of Emergency Services and Federal Emergency Management Agency, Region IX officials have reviewed the Butte County Local Hazard Mitigation Plan and approve it contingent upon this official adoption of the participating governing body; and

WHEREAS, the City of Oroville desires to comply with the requirements of the Disaster Mitigation Act and to augment its emergency planning efforts by formally adopting the Butte County Local Hazard Mitigation Plan by reference into the Safety Element of the General Plan in accordance with the requirements of AB 2140; and

WHEREAS, adoption by the governing body for the City of Oroville demonstrates the jurisdiction's commitment to fulfilling the mitigation goals and objectives outlined in this Local Hazard Mitigation Plan; and

WHEREAS, adoption of this legitimizes the plan and authorizes responsible agencies to carry out their responsibilities under the plan.

NOW, THEREFORE, BE IT RESOLVED that the City of Oroville adopts the Butte County Local Hazard Mitigation Plan as an official plan; and

BE IT RESOLVED, that the City of Oroville adopts the Butte County Local Hazard Mitigation Plan by reference into the safety element of their general plan in accordance with the requirements of AB 2140; and

BE IT FURTHER RESOLVED, the City of Oroville will have this adoption resolution submitted to the California Office of Emergency Services and FEMA Region IX officials to enable the plan's final approval in accordance with the requirements of the Disaster Mitigation Act of 2000 and to establish conformance with the requirement of AB 2140.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting on January 07, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Chuck Reynolds, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Jackie Glover, Assistant City Clerk



CITY OF OROVILLE STAFF REPORT

TO: MAYOR REYNOLDS AND CITY COUNCIL MEMBERS
FROM: BILL LAGRONE, CITY ADMINISTRATOR
RE: ADOPTION OF FORMAL MEETING SCHEDULE FOR 2020
DATE: JANUARY 7, 2020

SUMMARY

The Council will consider the formal meeting schedule for 2020. The Council may adjust times of open session and closed session.

DISCUSSION

Each year in January the Council sets the meeting times for Council Meetings. It is in the interest of transparency that we adhere to this schedule as much as possible. The Community becomes accustomed to the Meetings occurring at certain times and it becomes confusing when the time is changed. From time to time it becomes necessary to change the time due to conflicts of schedules or complex issues that will require more time to discuss and debate.

Attached is a proposed schedule of meetings and times. The attachment is only a proposal. The only significant change is the start time of the meetings. It is proposed that closed session start at 4:30 pm and open session start at 5:00 pm. If there are several significant issues that require more closed session time the closed session could start at 4:00pm or continue to after the regular meeting. This is only a proposal if the Council wishes to start at another time, staff will adjust the calendar and distribute it in final form after direction is given.

FISCAL IMPACT


None

RECOMMENDATION

Provide Staff direction and approve the City's formal meeting schedule for 2020

CITY OF OROVILLE MEETING SCHEDULE - 2020

JANUARY							FEBRUARY							MARCH						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1	1	2	3	4	5	6	7
5	6	7	8	9	10	11	2	3	4	5	6	7	8	8	9	10	11	12	13	14
12	13	14	15	16	17	18	9	10	11	12	13	14	15	15	16	17	18	19	20	21
19	20	21	22	23	24	25	16	17	18	19	20	21	22	22	23	24	25	26	27	28
26	27	28	29	30	31		23	24	25	26	27	28	29	29	30	31				
APRIL							MAY							JUNE						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4						1	2		1	2	3	4	5	6
5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13
12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20
19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27
26	27	28	29	30			24	25	26	27	28	29	30	28	29	30				
							31													
JULY							AUGUST							SEPTEMBER						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4							1			1	2	3	4	5
5	6	7	8	9	10	11	2	3	4	5	6	7	8	6	7	8	9	10	11	12
12	13	14	15	16	17	18	9	10	11	12	13	14	15	13	14	15	16	17	18	19
19	20	21	22	23	24	25	16	17	18	19	20	21	22	20	21	22	23	24	25	26
26	27	28	29	30	31		23	24	25	26	27	28	29	27	28	29	30			
							30	31												
OCTOBER							NOVEMBER							DECEMBER						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
				1	2	3										1	2	3	4	5
4	5	6	7	8	9	10	1	2	3	4	5	6	7	6	7	8	9	10	11	12
11	12	13	14	15	16	17	8	9	10	11	12	13	14	13	14	15	16	17	18	19
18	19	20	21	22	23	24	15	16	17	18	19	20	21	20	21	22	23	24	25	26
25	26	27	28	29	30	31	22	23	24	25	26	27	28	27	28	29	30	31		
							28	30												

 City Council (1st and 3rd Tuesday of each month at 5:30 p.m.* AND 6:00 p.m.**)

Regular Meetings - *Closed Session ** Open Session

 Planning Commission (4th Thursday of each month at 7:00 p.m.)

 Arts Commission (2nd Tuesday every other month at 4:00 p.m.)


Park Commission (2nd Tuesday every other month at 5:00 p.m.)


 Supplemental Benefits Fund Steering Committee (4th Wednesday of each quarter at 2 p.m.)

 Housing Loan Advisory Committee (2nd Thursday of each month at 10:00 a.m.)

Economic Development Loan Advisory Committee (meets on an as needed basis)

 Holiday

 Executive Committee (2nd and 4th Monday at 9am)

 Citizens Oversight Committee (4th Tuesday of each quarter at 6:00)

 Development & Public Facilities Committee (meets on an as needed basis)

 Finance Committee (meets on an as needed basis)

FINAL 01/07/19



California Region
3055 Comcast Place
Livermore, CA 94551-9559

December 27, 2019

City Administrator's Office
City of Oroville
1735 Montgomery Street
Oroville, CA. 95965

Re: Important Information – Price Changes

Dear Sir or Madam,

At Comcast, we're committed to delivering the entertainment and services that matter most to our customers residing in your community, as well as exciting experiences they won't find anywhere else. As we continue to invest in our network, products, and services, the cost of doing business rises. Programming fees – the cost associated with carrying the programming our customers demand, especially broadcast television and sports programming – continue to rise each year and are one of our biggest expenses. While we absorb some of these costs, these fee increases affect service pricing. As a result, starting February 1, 2020, prices for certain services and fees will be increasing, including the Broadcast TV Fee and the Regional Sports Network Fee. Please see the enclosed Customer Notice for more information.

While some prices may increase, we continue to invest in technology to drive innovation. We work hard to bring our customers great value every day and exciting new developments, including:

- Xfinity Stream app included with Xfinity TV which has the most free shows and movies
- Apps like Netflix, Pandora, Amazon, and YouTube integrated on our X1 platform and easily accessed using our Voice Remote
- 163,000+ shows and movies on Xfinity On Demand
- Enhanced control of in-home Wi-Fi with Xfinity xFi
- Advanced security with the Xfinity Wireless Gateway
- The fastest Internet speeds in the country
- 19 million Xfinity Wi-Fi hotspots nationwide

We know you may have questions about these changes. If I can be of any further assistance, please contact me at (925) 424-0207 or via email at Mitzi_Givens-Russell@comcast.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mitzi Givens-Russell".

Mitzi Givens-Russell
Franchise Operations Manager
Comcast California

Attachment: Customer Notice

Important Information Regarding Xfinity Services and Pricing

Effective February 1, 2020

To our streamers, gamers, and online shoppers,

At Xfinity, we love keeping you connected to what matters most. We're proud to deliver exciting experiences you won't find anywhere else.

We want to let you know about some improvements we've made to your services, and also to tell you the cost of some of our services will be increasing.

Nobody likes price increases, including us, but they happen periodically due to rising business costs.

We continue to invest in our products and services. These investments lead to big improvements year after year, including:

- Powerful in-home WiFi and a more reliable network with more capacity
- The fastest Internet speeds in the country
- Exciting new technology you depend on, and the integration of the apps you use every day

You deserve the best, so we won't compromise on the experiences we create for you. As always, we sincerely thank you for being an Xfinity customer.

Your Xfinity Team

If you currently have a promotional offer or minimum term agreement with your services, those prices will stay the same throughout your promotional period or contract term. However, equipment charges, charges for additional features, taxes, and other fees may change. When your promotional offer or contract term ends, your bill will reflect our new package prices.

Experience the benefits of Xfinity

Xfinity Internet:

With Xfinity Flex, now included with Xfinity Internet-only service, stream your Netflix, HBO®, Prime Video, music, and more than 10,000 free movies and shows—all in one place on your TV

Enhanced security and control of your in-home WiFi with Xfinity xFi

The fastest Internet speeds in the country, including 1 Gigabit download speeds available to 98% of customers

19 million Xfinity WiFi hotspots nationwide

More details on these price changes are enclosed. For additional information, go to xfinity.com/pricechanges. For details on Xfinity features included with your service, see my.xfinity.com.

Biggs, Butte County, Chico, Corning, Durham, Glenn County, Grass Valley, Gridley, Hamilton City, Magalia, Nevada City, Orland, Oroville, Paradise, Willows, CA

81556000 (0110-0150, 0190-0200, 0230-0360)

P004CR20

Important Information Regarding Xfinity Services and Pricing

Effective February 1, 2020

XFINITY Internet

	Current	New
Internet/Voice Equipment Rental	\$13.00	\$14.00

Important Information Regarding Xfinity Services and Pricing

Effective February 1, 2020

To our viewers, streamers, gamers, and online shoppers,

At Xfinity, we love keeping you connected to what matters most. We're proud to deliver exciting experiences you won't find anywhere else.

We want to let you know about some improvements we've made to your services, and also to tell you the cost of some of our services will be increasing. Nobody likes price increases, including us, but they happen periodically for a few reasons. Network programming fees—the amount networks charge us to put their channels on our cable system—go up every year, and they are among our biggest expenses. While we absorb some of these costs, these fee increases affect service pricing.

We continue to invest in our products and services. These investments lead to big improvements year after year, including:

- Powerful in-home WiFi and a more reliable network with more capacity
- The fastest Internet speeds in the country
- Exciting new technology you depend on, and the integration of the apps you use every day
- Thousands of shows and movies available to watch on any screen, for our TV and Internet customers alike

You deserve the best, so we won't compromise on the experiences we create for you. As always, we sincerely thank you for being an Xfinity customer.

Your Xfinity Team

If you currently have a promotional offer or minimum term agreement with your services, those prices will stay the same throughout your promotional period or contract term. However, equipment charges, charges for additional features, taxes, and other fees, including the Broadcast TV Fee and Regional Sports Network Fee, may change. When your promotional offer or contract term ends, your bill will reflect our new package prices.

Experience the benefits of Xfinity

Xfinity Internet:

The fastest Internet speeds in the country

Advanced security with our Xfinity Wireless Gateway

19 million Xfinity WiFi hotspots nationwide

Xfinity TV:

Xfinity Stream app included with Xfinity TV has the most free shows and movies

Stream apps like Netflix, Pandora, Prime Video, and YouTube on X1 with the Voice Remote

163,000+ shows and movies on Xfinity On Demand

More details on these price changes are enclosed. For additional information, go to xfinity.com/pricechanges. For details on Xfinity features included with your service, see my.xfinity.com.

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P004AR20

Important Information Regarding Xfinity Services and Pricing

Effective February 1, 2020

BASIC SERVICES

	Current	New
Broadcast TV Fee	\$10.00	\$14.95

PAY-PER-VIEW AND ON DEMAND SUBSCRIPTION SERVICES

	Current	New
CuriosityStream On Demand	\$5.99	\$2.99

XFINITY TV EQUIPMENT

	Current	New
TV Box Limited Basic	\$2.50	\$4.85
TV Box	\$2.50	\$4.85
HD TV Box Limited Basic	\$2.50	\$4.85

XFINITY Internet

	Current	New
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Biggs, Butte County, Chico, Corning, Durham, Glenn County, Grass Valley, Gridley, Hamilton City, Magalia, Nevada City, Orland, Oroville, Paradise, Willows, CA

Handouts at Meeting

January 7, 2020



Annex D City of Oroville

D.1 Introduction

This Annex details the hazard mitigation planning elements specific to the City of Oroville, a previously participating jurisdiction to the 2014 Butte County Local Hazard Mitigation Plan (LHMP) Update. This Annex is not intended to be a standalone document, but appends to and supplements the information contained in the Base Plan document. As such, all sections of the Base Plan, including the planning process and other procedural requirements apply to and were met by the City. This Annex provides additional information specific to the City of Oroville, with a focus on providing additional details on the risk assessment and mitigation strategy for this community.

D.2 Planning Process

As described above, the City of Oroville followed the planning process detailed in Chapter 3 of the Base Plan. In addition to providing representation on the Butte County Hazard Mitigation Planning Committee (HMPC), the City formulated their own internal planning team to support the broader planning process requirements. Internal planning participants, their positions, and how they participated in the planning process are shown in Table D-1. Additional details on plan participation and City representatives are included in Appendix A.

Table D-1 City of Oroville – Planning Team

Name	Position/Title	How Participated
Joe Deal	City of Oroville Police	Attended meetings. Provided hazard identification table. Provided hazard related data. Reviewed and provide data and edits for Plan drafts.
Steve Solano	City of Oroville Police	Attended LHMP Update and HMPC Meeting. Gathered Mitigation Action Plan information.
Jesse Smith	City GIS Specialist	Reviewed drafts, provided data
Wes Erwin	City Planner	Reviewed drafts, provided data
Mike Mixon	City Planning Commission	Reviewed drafts, provided data

Coordination with other community planning efforts is paramount to the successful implementation of this Plan. This section provides information on how the City integrated the previously approved 2014 Plan into existing planning mechanisms and programs. Specifically, the City incorporated into or implemented the 2014 LHMP through other plans and programs shown in Table D-2.

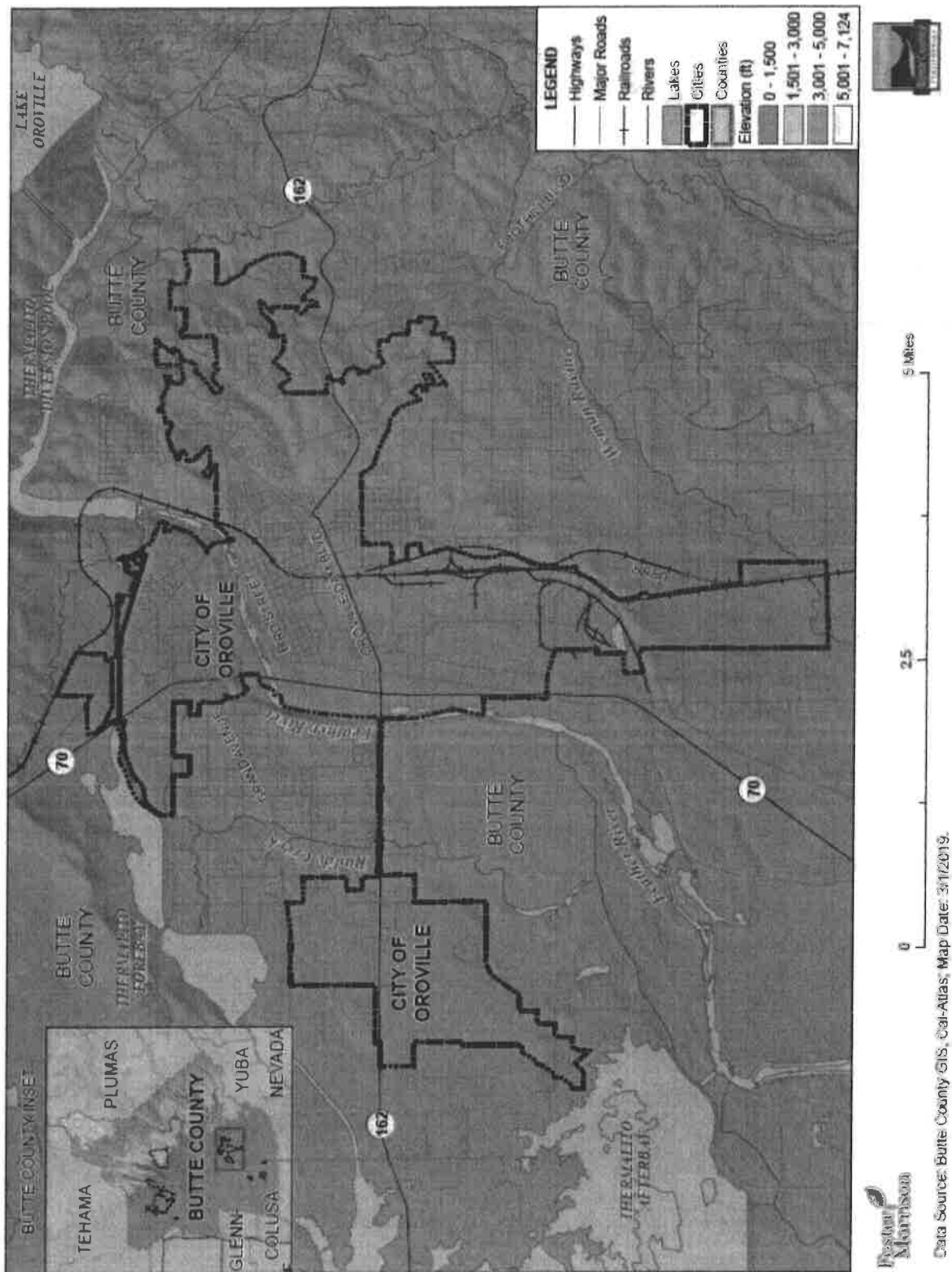
Table D-2 2014 LHMP Incorporation

Planning Mechanism 2014 LHMP Was Incorporated/Implemented In.	Details: How was it incorporated?
2015 City of Oroville General Plan	Data was used from the LHMP to create the Safety Element. Under Goal SAF-7, Policy P7.4 states "Use the Butte County Local Hazard Mitigation Plan as the guide for disaster planning in the Oroville Planning Area."
2017 City of Oroville Evacuation Planning Operational Committee	The City of Oroville developed an Emergency Operations Plan. (http://www.cityoforoville.org/home/showdocument?id=16424 , City of Oroville, 2017).
The 2014 LHMP	In 2016, a Disaster Council Meeting was scheduled to discuss the LHMP.

D.3 Community Profile

The community profile for the City of Oroville is detailed in the following sections. Figure D-1 displays a City map and the location of the City of Oroville within Butte County.

Figure D-1 City of Oroville



D.3.1. Geography and Climate

The City of Oroville is one of five incorporated municipalities in Butte County and is the county seat. The City's incorporated area consists of a 13 square-mile area located 65 miles north of Sacramento, where the Sacramento Valley meets the Sierra Nevada foothills. Oroville lies 5 miles west of Highway 99 along Highway 70, a primary transportation route connecting Oroville with Sacramento to the south and Plumas County to the north.

Oroville is primarily a single-family residential community with an historic downtown district and a main commercial corridor along Oroville Dam Boulevard. As a charter city, Oroville operates largely in accordance with its own City Charter, compared to general law cities, which are governed according to State statutes. The City's southern and western areas are primarily flat river basin lands that rise into the Sierra Nevada foothills in the northeast. The eastern portion of the City is located in an urban-wildland interface that begins the Sierra Nevada foothills. Development in this eastern area occurs in and around tracts of oak woodlands and chaparral.

D.3.2. History

Oroville is situated on the banks of the Feather River where it flows out of the Sierra Nevada onto the flat floor of the California Central Valley. It was established as the head of navigation on the Feather River to supply gold miners during the California Gold Rush.

Gold found at Bidwell Bar, one of the first gold mining sites in California, brought thousands of prospectors to the Oroville area seeking riches. Now under the enormous Lake Oroville, Bidwell Bar is memorialized by the Bidwell Bar Bridge, an original remnant from the area and the first suspension bridge in California (California Historical Landmark #314). In the early 20th century the Western Pacific Railroad completed construction of the all-weather Feather River Canyon route through the Sierra Nevadas giving it the nickname of "The Feather River Route". Oroville would serve as an important stop for the famous California Zephyr during its 20-year run. In 1983, this became a part of the Union Pacific Railroad as their Feather River Canyon Subdivision. A major highway, State Route 70, roughly parallels the railroad line through the canyon.

The Chinese Temple (CHL #770) and listed on the National Register of Historic Places is another monument to Oroville's storied past. Chinese laborers from the pioneer era established the Temple as a place of worship for followers of Chinese Popular Religion and the three major Chinese religions: Taoism, Buddhism, and Confucianism. The Chinese Temple and Garden, as it is now called, has an extensive collection of artifacts and a serene garden to enjoy.

Ishi, Oroville's most famous resident, was the last of the Yahi Indians and is considered the last "Stone Age" Indian to come out of the wilderness and into western civilization. When he appeared in Oroville around 1911, he was immediately thrust into the national spotlight.

D.3.3. Economy and Tax Base

US Census estimates show economic characteristics for the City of Oroville. These are shown in Table D-3 and Table D-4. Mean household income in the City was \$56,328. Median household income in the City was \$46,233.

Table D-3 City of Oroville – Civilian Employed Population 16 years and Over

Industry	Estimated Employment	Percent
Agriculture, forestry, fishing and hunting, and mining	126	2.0%
Construction	431	7.0%
Manufacturing	351	5.7%
Wholesale trade	134	2.2%
Retail trade	692	11.2%
Transportation and warehousing, and utilities	187	3.0%
Information	81	1.3%
Finance and insurance, and real estate and rental and leasing	385	6.2%
Professional, scientific, and management, and administrative and waste management services	415	6.7%
Educational services, and health care and social assistance	1,606	25.9%
Arts, entertainment, and recreation, and accommodation and food services	966	16.1%
Other services, except public administration	247	4.0%
Public administration	547	8.8%

Source: US Census Bureau American Community Survey 2013-2017 Estimates

Table D-4 City of Oroville – Income and Benefits

Income Bracket	Population	Percent
<\$10,000	552	8.9%
\$10,000 – \$14,999	539	8.7%
\$15,000 - \$24,999	1,101	17.8%
\$25,000 – \$34,999	860	13.9%
\$35,000 – \$49,999	1,006	16.3%
\$50,000 – \$74,999	1,100	17.8%
\$75,000 – \$99,999	493	8.0%
\$100,000 – \$149,999	340	5.5%
\$150,000 – \$199,999	74	1.2%
\$200,000 or more	105	1.7%

Source: US Census Bureau, 2010

According to the US Census, the retail trade business sector brings in the most revenue in Oroville; in 2012 (the most recent data as of the writing of this Plan), this sector generated approximately \$396 million in

revenue, which was about 39 percent of total industry revenue in Oroville. Manufacturing was next at 31 percent of total revenue, followed by health care and social assistance at 20 percent. Together these top business sectors made up almost 90 percent of Oroville's total business sales and revenue.

According to the City of Oroville 2030 General Plan Economic Development Element, similar to the sales and revenue data discussed above, the health care and social assistance, retail trade, and manufacturing sectors employ the most people in Oroville, together comprising about 75 percent of the total employees in the City. Largest employers in the City and their employment counts, from the Butte County Auditor's Office, are listed below:

- County of Butte – 2,250
- Oroville Medical Complex – 950
- Pacific Coast Producers – 560
- Wal Mart Stores, Inc. – 284
- Home Depot USA – 107
- City of Oroville – 116
- Currier Square Spe LLC – 100
- Roplast Industries, Inc. – 105
- Ammunition Accessories – 90
- Sierra Pacific Industries – 108

D.3.4. Population

The California Department of Finance estimated the January 1, 2019 total population for the City of Oroville was 21,773.

D.4 Hazard Identification

Oroville's planning team identified the hazards that affect the City and summarized their location, extent, frequency of occurrence, potential magnitude, and significance specific to Oroville (see Table D-5).

Table D-5 City of Oroville—Hazard Identification Assessment

Hazard	Geographic Extent	Likelihood of Future Occurrences	Magnitude/Severity	Significance	Climate Change Influence
Climate Change	Extensive	Likely	Limited	Low	—
Dam Failure	Extensive	Unlikely	Catastrophic	High	Medium
Drought & Water shortage	Limited	Likely	Negligible	Medium	High
Earthquake and Liquefaction	Significant	Occasional	Critical	Medium	Low
Floods: 100/200/500 year	Significant	Occasional	Critical	Medium	Medium
Floods: Localized Stormwater	Significant	Occasional	Critical	Medium	Medium
Hazardous Materials Transportation	Limited	Highly Likely	Negligible	Low	Low
Invasive Species: Aquatic	Significant	Occasional	Critical	Low	Medium
Invasive Species: Pests/Plants	Limited	Unlikely	Negligible	Low	Low
Landslide, Mudslide, and Debris Flow	Limited	Unlikely	Negligible	Low	Low
Levee Failure	Significant	Likely	Limited	Medium	Medium
Severe Weather: Extreme Heat	Limited	Highly Likely	Negligible	Medium	High
Severe Weather: Freeze and Winter Storm	Significant	Occasional	Negligible	Medium	Medium
Severe Weather: Heavy Rain and Storms (Hail, Lightning, Wind)	Significant	Likely	Limited	Medium	Medium
Severe Weather: Wind and Tornado	Extensive	Unlikely	Catastrophic	Low	Low
Stream Bank Erosion	Limited	Unlikely	Limited	Low	Low
Volcano	Significant	Unlikely	Critical	Low	Low
Wildfire	Extensive	Highly Likely	Critical	High	High
<div> <div> Geographic Extent Limited: Less than 10% of planning area Significant: 10-50% of planning area Extensive: 50-100% of planning area </div> <div> Likelihood of Future Occurrences Highly Likely: Near 100% chance of occurrence in next year, or happens every year. Likely: Between 10 and 100% chance of occurrence in next year, or has a recurrence interval of 10 years or less. Occasional: Between 1 and 10% chance of occurrence in the next year, or has a recurrence interval of 11 to 100 years. Unlikely: Less than 1% chance of occurrence in next 100 years, or has a recurrence interval of greater than every 100 years. </div> <div> Magnitude/Severity Catastrophic—More than 50 percent of property severely damaged; shutdown of facilities for more than 30 days; and/or multiple deaths Critical—25-50 percent of property severely damaged; shutdown of facilities for at least two weeks; and/or injuries and/or illnesses result in permanent disability Limited—10-25 percent of property severely damaged; shutdown of facilities for more than a week; and/or injuries/illnesses treatable do not result in permanent disability Negligible—Less than 10 percent of property severely damaged, shutdown of facilities and services for less than 24 hours; and/or injuries/illnesses treatable with first aid </div> <div> Significance Low: minimal potential impact Medium: moderate potential impact High: widespread potential impact </div> <div> Climate Change Influence Low: minimal potential impact Medium: moderate potential impact High: widespread potential impact </div> </div>					

D.5 Hazard Profile and Vulnerability Assessment

The intent of this section is to profile Oroville's hazards and assess the City's vulnerability separate from that of the Planning Area as a whole, which has already been assessed in Sections 4.2 Hazard Profiles and 4.3 Vulnerability Assessment in the Base Plan. The hazard profiles in the Base Plan discuss overall impacts to the Planning Area and describes the hazard problem description, hazard location and extent, magnitude/severity, previous occurrences of hazard events and the likelihood of future occurrences. Hazard profile information specific to the City is included in this annex. This vulnerability assessment analyzes the property, population, critical facilities, and other assets at risk to hazards ranked of medium or high significance specific to the City and also includes a vulnerability assessment to the three primary hazards to the State of California: earthquake, flood, and wildfire. For more information about how hazards affect the County as a whole, see Chapter 4 Risk Assessment in the Base Plan.

D.5.1. Hazard Profiles

Each hazard vulnerability assessment in Section D.5.3, includes a hazard profile/problem description as to how each medium or high significant hazard affects the City and includes information on past hazard occurrences. The intent of this section is to provide jurisdictional specific information on hazards and further describe how the hazards and risks differ across the Planning Area.

D.5.2. Vulnerability Assessment and Assets at Risk

This section identifies Oroville's total assets at risk, including values at risk, populations at risk, critical facilities and infrastructure, natural resources, and historic and cultural resources. Growth and development trends are also presented for the community. This data is not hazard specific, but is representative of total assets at risk within the community.

Values at Risk

The following data from the Butte County Assessor's Office is based on the 3/28/2019 (post-Camp Fire) Assessor's data. The methodology used to derive property values is the same as in Section 4.3.1 of the Base Plan. This data should only be used as a guideline to overall values in the County, as the information has some limitations. The most significant limitation is created by Proposition 13 and the Williamson Act as detailed in the Base Plan. With respect to Proposition 13, instead of adjusting property values annually, the values are not adjusted or assessed at fair market value until a property transfer occurs. As a result, overall value information is most likely low and does not reflect current market value of properties within the County. It is also important to note, in the event of a disaster, it is generally the value of the infrastructure or improvements to the land that is of concern or at risk. Generally, the land itself is not a loss. However, depending on the type of hazard and impact of any given hazard event, land values may be adversely affected; thus, land values are included as appropriate. Table D-6 shows the 3/28/2019 Assessor's values (e.g., the values at risk) broken down by property type for the City of Oroville.

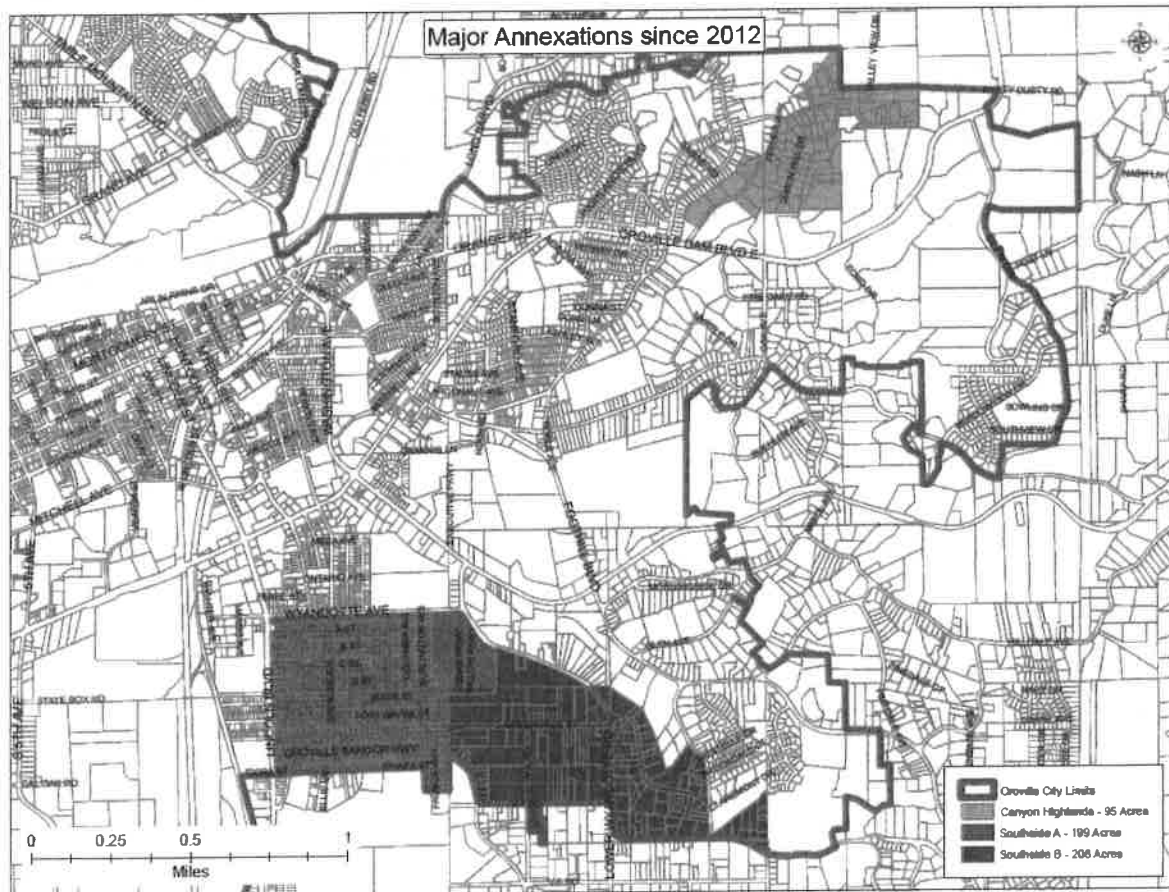
Table D-6 City of Oroville – Total Values at Risk by Property Use

Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Agricultural	9	0	\$1,291,076	\$0	\$7,947	\$0	\$1,299,023
Commercial	1,042	699	\$107,833,747	\$338,951,493	\$19,007,806	\$338,951,493	\$706,417,512
Industrial	227	72	\$26,057,297	\$40,098,771	\$42,318,610	\$60,148,157	\$192,568,485
Residential	5,705	4,728	\$185,105,000	\$504,810,718	\$7,000	\$252,405,359	\$882,337,953
Unknown	162	2	\$64,518	\$314,266	\$	\$0	\$377,654
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 3/28/2019 Parcel/Assessor's Data

The City Planning Team noted late in the Planning Process that mapping for the City provided by Butte County did not account for annexations that had occurred since 2012. These annexations are shown on Figure D-2. Due to its late inclusion, GIS analysis of these annexed areas was not performed. The map is included here for reference purposes only.

Figure D-2 City of Oroville - Annexations since 2012



Source: City of Oroville

Population and Special Populations at Risk

General Population

As previously described in the community profile, based on California Department of Finance estimates, the current January 1, 2019 total population for the City of Oroville was 21,773, all of which are potentially vulnerable to hazard events.

Special Populations and Disadvantaged Communities

The City of Oroville 2030 General Plan Land Use Element noted that Senate Bill (SB) 244 requires that the Land Use Element identify Disadvantaged Unincorporated Communities (DUCs) within the City's SOI, analyze infrastructure and fire service needs and deficiencies, and assess potential funding mechanisms for expansions of services and facilities. DUCs are defined as follows:

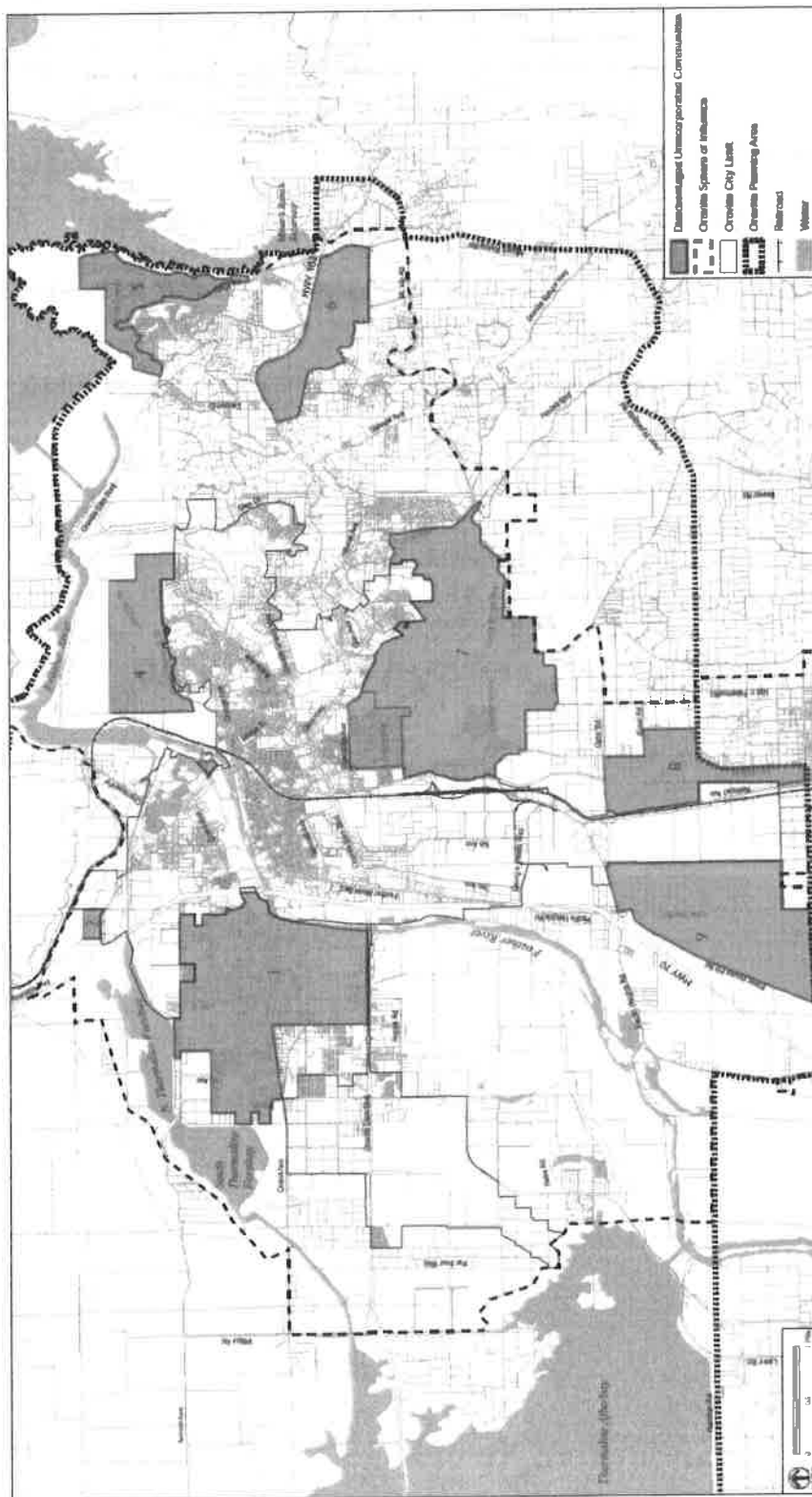
- Inhabited with ten or more homes adjacent or in close proximity to one another; and
- Either within a city's SOI, islands within a city boundary, or geographically isolated and have existed for more than 50 years; and
- The median household income is 80 percent or less than the statewide median household income.

Disadvantaged Unincorporated Communities in Oroville's SOI The DUCs within Oroville's SOI are shown in Figure D-3. These communities were mapped using the following steps:

- Identify Census block groups in which greater than 50 percent of the households have annual incomes that are less than 80 percent of the statewide median (based on 2010 Census data).
- Exclude areas of the Census block groups that are within the city limits or outside the SOI.
- Delineate the communities within these Census block groups based on aerial photographs and parcel data. Communities are defined as having ten or more

As shown in Figure D-3, there are nine DUCs in Oroville's SOI ranging in size from 9 acres to 1,940 acres. Some mapped DUCs encompass multiple communities that are adjacent to one another.

Figure D-3 City of Oroville - Disadvantaged Communities



Source: City of Oroville 2030 General Plan Land Use Element

The City of Oroville recognizes special populations and implemented the Butte County Precautionary Emergency Evacuation Plan for Special Needs population. This Plan was activated during the Oroville Dam Crisis in 2017.

Critical Facilities and Infrastructure

For purposes of this plan, a critical facility is defined as:

Any facility, including without limitation, a structure, infrastructure, property, equipment or service, that if adversely affected during a hazard event may result in severe consequences to public health and safety or interrupt essential services and operations for the community at any time before, during and after the hazard event.

A critical facility is classified by the following categories: (1) Essential Services Facilities and (2) At-Risk Populations Facilities, as discussed in Section 4.3.1 of the Base Plan.

An inventory of critical facilities in the City of Oroville from Butte County GIS is shown on Figure D-4. Table D-7 gives summary information about the critical facilities in the City. Table D-8 details the facility categories and breaks them down by facility type. Details of critical facility definition, type, name, address, and jurisdiction by hazard zone are listed in Appendix F.

Figure D-4 City of Oroville – Critical Facilities

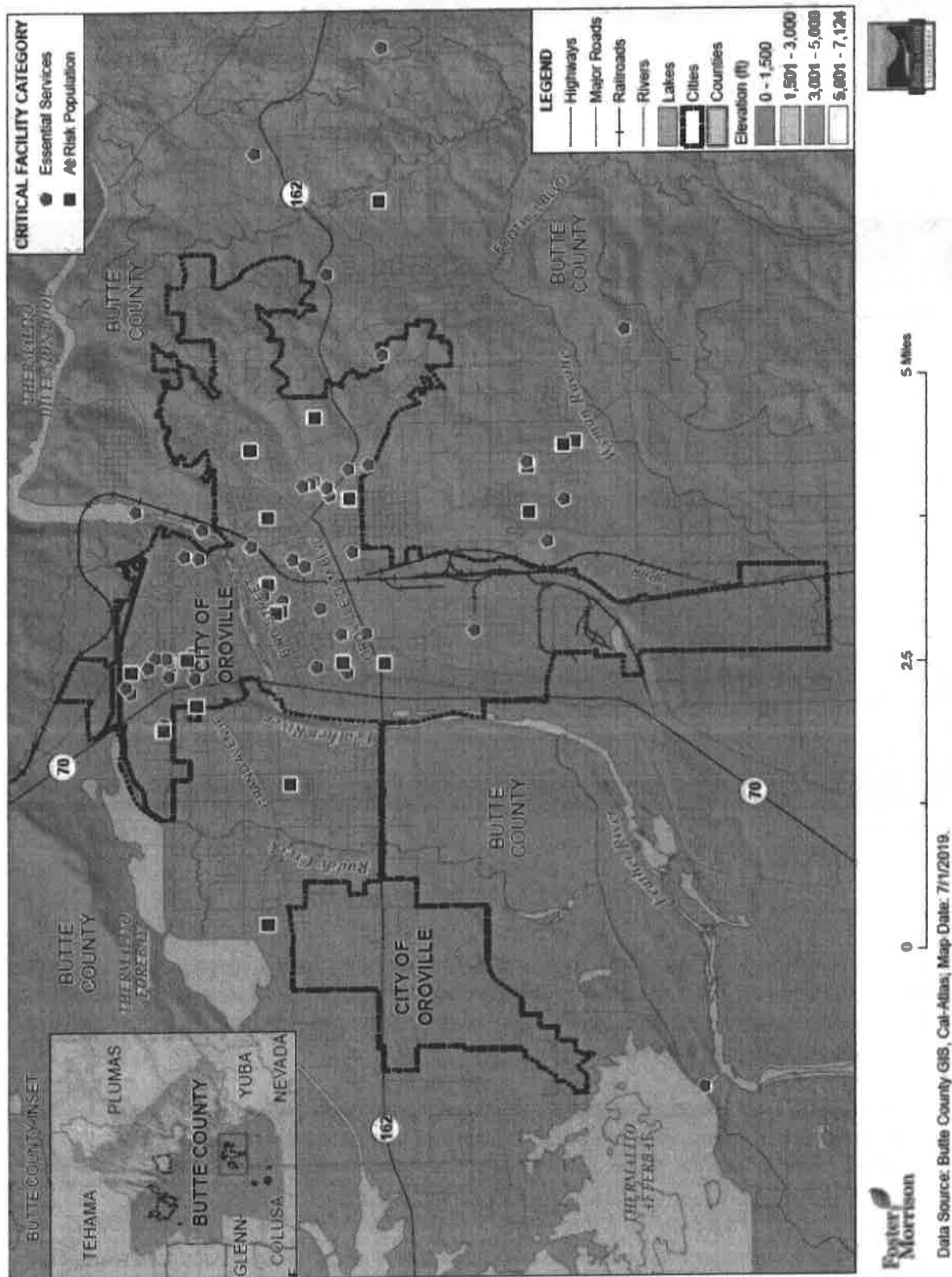


Table D-7 City of Oroville – Critical Facility Summary

Critical Facility Category	Facility Count
Essential Services Facilities	40
At Risk Population Facilities	20
City of Oroville Total	60

Source: Butte County GIS

Table D-8 City of Oroville – Critical Facilities by Facility Type

Critical Facility Category / Facility Type	Facility Count
Essential Services Facilities	
Wastewater Treatment Plant	1
Fire	3
Health Care	19
Law Enforcement	3
Public Assembly Point / Evacuation Center	2
Radio Sites	3
Logistics Hub	6
Emergency Operation Center	1
DOC	1
Emergency Animal Shelter	1
Essential Services Facilities Total	40
At Risk Population Facilities	
School	20
At Risk Population Facilities Total	20
Grand Total	60

Source: Butte County GIS

Natural Resources

Biological communities in the City of Oroville Planning Area were significantly impacted beginning in the mid-1800s as the area was first hydraulically mined, and later dredged for gold, as well as developed for agriculture. Despite these human modifications to the natural environment, important biological resources continue to exist in and around Oroville.

Within the Planning Area, several regional parks and other protected public lands contain sensitive biological habitats (e.g. riparian, oak woodland and vernal pool) and may support State and federally listed species. These lands include the Thermalito Afterbay, Thermalito Forebay, Oroville Wildlife Area and other natural lands managed by the California Department of Fish and Game (DFG), California Department of Parks and Recreation (DPR) and the Feather River Recreation and Parks District. Although not in the Planning Area, nearby open space and wilderness areas such as the Plumas National Forest and North Table

Mountain Wildlife Area provide important biological resources to the region. Wide-ranging wildlife species (e.g. blacktailed deer, osprey, golden eagle, bald eagle and numerous species of migratory birds) within these areas could migrate through or forage in the Planning Area. Important biological resources in the Planning Area are described in greater detail below.

Nine main types of biological communities occur in the Planning Area. These nine communities include:

- **Foothill Pine-Blue Oak Woodland.** Foothill pine-blue oak woodlands are scattered throughout the Planning Area but are concentrated in the eastern half of the Planning Area in a mostly rural setting, with extensive woodlands occurring around Lake Oroville.
- **Riparian Woodlands.** Riparian woodlands are common throughout the Planning Area and occur along portions of the Feather River, Thermalito Afterbay and Forebay, Thermalito Diversion Pool and along numerous perennial and ephemeral drainages in the eastern portion of the Planning Area. Riparian woodlands are also commonly associated with dredge tailings throughout the Planning Area.
- **Annual Grasslands.** Annual grasslands occur throughout the Planning Area. Large, open areas of annual grasslands occur primarily in the western half of the Planning Area and are typically grazing pastures for livestock. Annual grasslands also form the understory for foothill pine-blue oak woodland and occur on vacant parcels in developed areas.
- **Chaparral.** A small aggregation of chaparral occurs in the northern portion of the Planning Area on the south-facing slopes of South Table Mountain. Small scattered areas of chaparral are also present within the understory of woodlands throughout the Planning Area.
- **Agricultural Lands.** Areas used for agriculture are scattered throughout the Planning Area. Row crops and rice fields occur predominantly in mostly flat areas in the northwest portion of the Planning Area along Highway 99. Within the Planning Area small olive groves occur on hillsides in the southeastern portion and citrus orchards in the southwest corner.
- **Wetlands.** Wetlands are considered sensitive natural communities by several resource agencies and should be given special consideration in the Planning Area because they provide a variety of important ecological functions and essential habitat for wildlife resources. Natural wetland habitats are steadily declining compared to their historical distribution, as a result of land management practices and development activities. Four types of wetlands occur in the Planning Area.
- **Vernal Pools.** Vernal pools occur primarily in the western half of the Planning Area and are concentrated in the areas shown on Figure D-5. The largest area of vernal pools is located north and south of Cottonwood Road between Highways 99 and 70; these pools are northern volcanic mud flow vernal pools. Vernal pools in the Planning Area occur within annual grasslands and represent a variety of pool types, including northern hardpan and northern volcanic mud flow pools. Vernal pools may occur as individual pools with discrete boundaries or be connected with other vernal pools via vernal swales to form a vernal pool complex. Vernal swales consist of vernal pools that occur within shallow, linear depressions.
- **Drainages.** Perennial and ephemeral drainages occur throughout the Planning Area and are shown in Figure D-5. These drainages are typically associated with riparian habitat described above and may support patches of freshwater marsh. Primary drainages within the Planning Area include the Feather River, Cottonwood Creek, Little Cottonwood Creek, Wyman Ravine, Wyndotte Creek and the Western Canal.
- **Freshwater Marsh.** Freshwater marsh occurs in the northwest portion of the Planning Area along the margins of flooded rice fields adjacent to Highway 99. Drainages and open water habitats in the Planning Area may also support patches of freshwater marsh.
- **Reservoir.** The Thermalito Afterbay and Thermalito Forebay are large reservoirs located on the Feather River in the western portion of the Planning Area formed by earthen dams. The Thermalito Afterbay and Thermalito Forebay provide resting and foraging habitat for migratory waterfowl traveling along the Pacific Flyway. The Thermalito Afterbay is part of the larger Oroville Wildlife Area (shown on

Figure D-5). The eastern portion of the preserve surrounding the Feather River contains numerous dredge tailings and borrows pits.

Figure D-5 Vernal Pools and Drainage Corridors in Oroville

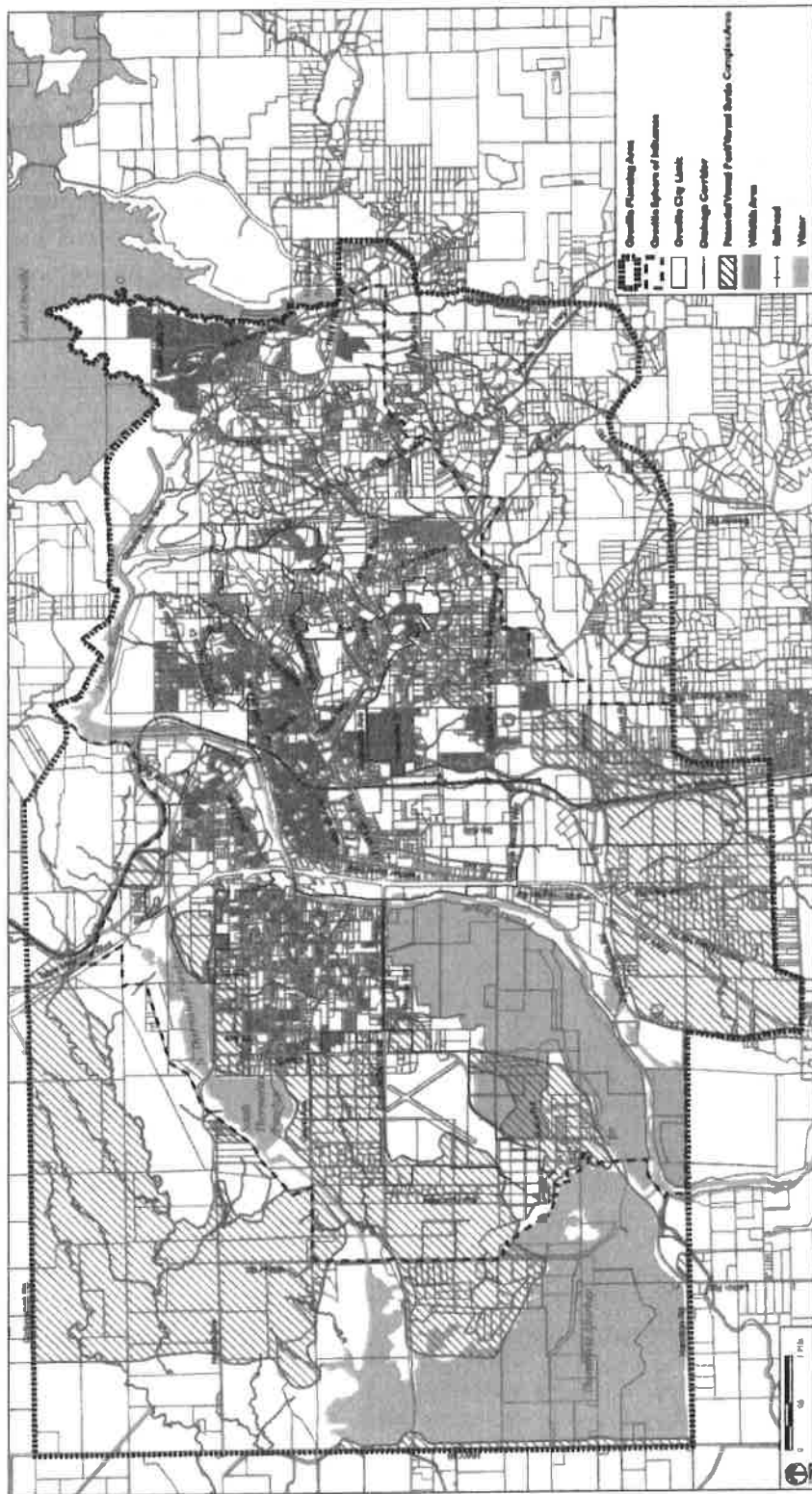


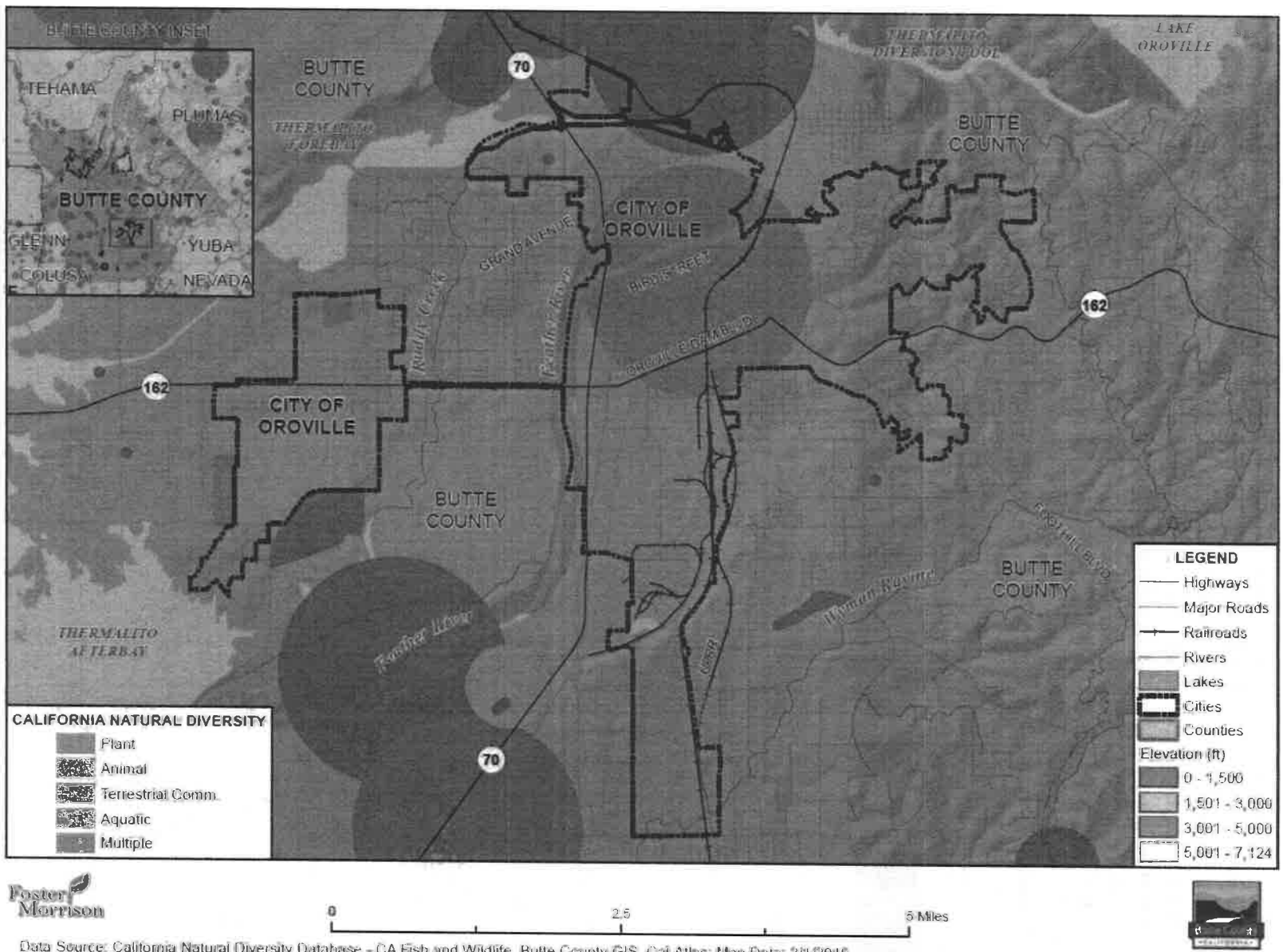
FIGURE D-5
VERNAL POOLS AND DRAINAGE CORRIDORS

Source: City of Oroville 2030 General Plan Open Space, Natural Resources, and Conservation Element

The distribution of biological communities in the Planning Area is closely associated with topography and hydrology. Some of the flat valley area supports agricultural lands, the hilly portions support most of the remaining grassland and woodland communities and stream corridors support riparian communities.

The California Natural Diversity Database (CNDDDB) is a "natural heritage program" and is part of a nationwide network of similar programs overseen by NatureServe (formerly part of The Nature Conservancy). All natural heritage programs provide location and natural history information on special status plants, animals, and natural communities to the public, other agencies, and conservation organizations. The data help drive conservation decisions, aid in the environmental review of projects and land use changes, and provide baseline data helpful in recovering endangered species and for research projects. Spatial information regarding these program areas in the City of Oroville is shown on Figure D-6.

Figure D-6 City of Oroville Natural Diversity Map



Historic and Cultural Resources

The City of Oroville has a stock of historically significant homes, public buildings, and landmarks. To inventory these resources, the HMPC collected information from a number of sources. The California Department of Parks and Recreation Office of Historic Preservation (OHP) was the primary source of information. The OHP is responsible for the administration of federally and state mandated historic preservation programs to further the identification, evaluation, registration, and protection of California's irreplaceable archaeological and historical resources. OHP administers the National Register of Historic Places, the California Register of Historical Resources, California Historical Landmarks, and the California Points of Historical Interest programs. Each program has different eligibility criteria and procedural requirements. These requirements are detailed in Section 4.3.1 of the base plan. Historic properties in Oroville are shown in Table D-9.

Table D-9 City of Oroville – Historic Properties

Resource Name (Plaque Number)	National Register	State Landmark	California Register	Point of Interest	Date Listed	City/Community
Bidwell's Bar (330)		X			8/8/1939	Oroville
Cherokee Townsite And Adjoining Spring Valley Mine (P557)				X	12/19/1980	Oroville
Chinese Cemetery (P584)				X	3/1/1982	Oroville
Chinese Temple (770)		X			1/31/1962	Oroville
Discovery Site of the Last Yahi Indian (809)		X			10/5/1965	Oroville
Garrott's Saw Mill (P116)				X	6/6/1969	Oroville
Jewish Cemetery (P585)				X	3/1/1982	Oroville
Lee, Fong, Company (N1057)	X				3/11/1982	Oroville
Long's Bar (P576)				X	12/21/1981	Oroville
Lott Museum-Sank Park (P2)				X	8/5/1966	Oroville
Old Chinese Cemetery (P413)				X	8/7/1975	Oroville
Old Suspension Bridge (314)		X			7/12/1939	Oroville
Oregon City (807)		X			6/28/1965	Oroville
Oroville Carnegie Library (N2362)	X				5/8/2007	Oroville
Oroville Cemetery (P583)				X	3/1/1982	Oroville
Oroville Chinese Temple (N431)	X				7/30/1976	Oroville
Oroville Commercial District (Old) (N1211)	X				7/28/1983	Oroville
Oroville Inn (N1635)	X				9/13/1990	Oroville
Oroville Odd Fellows Home Site, Bella Vista Hotel (P726)				X	8/17/1990	Oroville
State Theatre (N1731)	X				9/13/1991	Oroville

Source: California Department of Parks and Recreation Office of Historic Preservation

In addition, the City of Oroville 2030 General Plan Open Space, Natural Resources, and Conservation element details some of the prehistoric archaeological and historic resources. Some of these resources are located inside the City limits, while others are in the City Sphere of Influence (SOI).

Prehistoric and historic archaeological resources in the Planning Area include:

Native American habitation sites, temporary campsites, lithic reduction stations (stone tool making locations), milling stations, rock features and burial locations. To prevent possible looting and/or disturbance, the location of archaeological resources are not mapped.

A total of 33 sites with prehistoric components have been recorded within the City of Oroville SOI. Six of these sites contain historic components as well. The most common type of prehistoric site found in the City of Oroville SOI are milling stations at locations such as the Feather River Nature Center, followed by temporary campsites, habitation sites, burial locations and rock features. Two sites have known Native American burials.

Prehistoric sites are often found along major rivers in the Sacramento Valley, with their associated areas of high ground and natural levees. Prehistoric sites are also often found along the various creeks and minor drainages in the foothills of the Sierra Nevada Mountains and their adjacent interior valleys and grasslands. This pattern applies to the City of Oroville SOI, where prehistoric sites tend to be located along the Feather River, its tributaries and smaller drainages. In particular, the banks of the Feather River and its tributaries in the Historic Downtown, Hammon, Western Pacific, Canyon Highlands, northern Oakvale and Kelly Ridge areas are very sensitive for prehistoric archaeological resources.

Historic archaeological site types in the SOI include abandoned transportation corridors and alignments, and remnants of activities associated with historic mining, settlement and agriculture. For the purposes of this General Plan, historic archaeological resources are distinguished from historic resources (the built environment) largely by condition. That is, resources that are still functional (roads that are traveled, ditches carrying water, standing structures) are considered part of the built environment. The remnants of these structures are considered archaeological resources. Historic archaeological sensitivity is considered particularly high along the banks of the Feather River in the Historic Downtown, Hammon, Western Pacific, Kelly Ridge, Oroville Dam Area, Oro Bangor, Foothills and Oakvale areas.

Growth and Development Trends

Oroville has seen steady growth. Oroville has seen growth rates as shown in Table D-10. The City saw large growth between 1960 and 2000, with a dip between 2000 and 2010. Much of the 2019 growth is attributed to the movement of people into Oroville from Paradise due to the Camp Fire.

Table D-10 City of Oroville – Population Changes Since 1950

Year	Population	Change	% Change
1950	5,387	–	–
1960	6,115	728	13.5%
1970	7,536	1,421	23.2%
1980	8,683	1,147	15.2%
1990	11,960	3,277	37.4%
2000	13,004	1,044	8.7%
2010 ¹	15,546	2,542	19.5%
2019 ²	21,773	6,227	40.1%

Source: ¹US Census Bureau, ²California Department of Finance

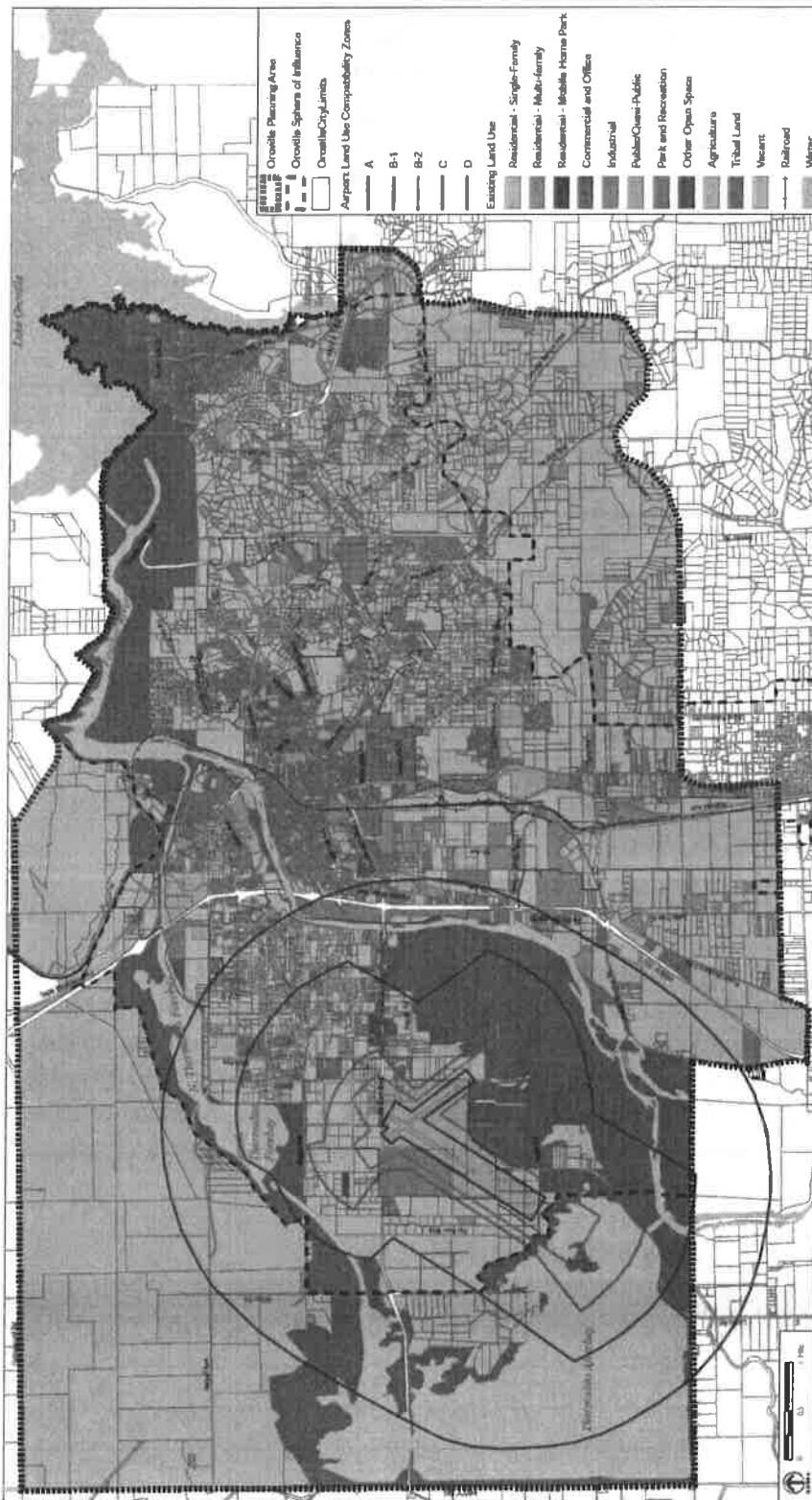
Land Use

As required by California Government Code Section 65302(a) and Public Resources Code Section 2762(a), the Land Use Element of the General Plan addresses the following issues:

- Distribution, location and extent of the uses of land for housing, business, industry, open space, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds and other categories of public and private uses of land.
- Standards of population density and building intensity for the land use designations.

The Land Use Element focuses on development that could potentially occur in both the existing city limits and the City's Sphere of Influence (SOI). The SOI is the area outside of the city limits that the City intends to incorporate in the future. Land use in the City of Oroville and surrounding area has not changed substantially since adoption of the 1995 City of Oroville General Plan. However, regional and local market trends have increased the rate of change over the past few years. Table D-11 shows the acreages of various existing land uses in the city limits and in the SOI, while Figure D-7 illustrates existing land uses.

Figure D-7 City of Oroville – Land Use Diagram



Source: City of Oroville 2030 General Plan Land Use Element

Table D-11 City of Oroville – Existing Land Uses

Land Use	City Limits (Acres)	Sphere of Influence (Acres)
Residential - Single-family	1,338	5,600
Residential – Multi-Family	265	535
Residential - Mobile Home Park	32	62
Commercial and Office	630	513
Industrial	416	336
Public/Quasi-Public	1,122	220
Parks and Recreation	513	106
Other Open Space	213	7,596
Agriculture	17	1,563
Tribal Lands	0	92
Vacant	3,117	5,805
Total	7,662	22,427

Source: City of Oroville 2030 General Plan Land Use Element

Development since 2014 Plan

The City Building Department tracked total building permits issued since 2014 for the City. These are tracked by total development, property use type, and hazard risk area. These are shown in Table D-12 and Table D-13. All development in the identified hazard areas, including the 1% annual chance floodplains, and moderate or higher wildfire risk areas, were completed in accordance with all current and applicable development codes and standards and should be adequately protected. Thus, with the exception of more people living in the area potentially exposed to natural hazards, this growth should not cause a significant change in vulnerability of the City to identified priority hazards.

Table D-12 City of Oroville – Total Development Since 2014

Property Use	2014	2015	2016	2017	2018
Agricultural	0	0	0	0	0
Commercial	1	1	3	4	2
Industrial	0	1	0	0	1
Residential	13	20	5	15	5

Property Use	2014	2015	2016	2017	2018
Unknown	0	0	0	0	0
Total	14	22	8	19	8

Source: City of Oroville Building Department

Table D-13 City of Oroville – Development in Hazard Areas since 2014

Property Use	1% Annual Chance Flood	Landslide Susceptibility Area	Wildfire Risk Area ¹	Other
Agricultural	0	0	0	0
Commercial	0	0	1	0
Industrial	0	0	0	0
Residential	0	0	2	0
Unknown	0	0	0	0
Total	0	0	3	0

Source: City of Oroville Building Department

¹Moderate or higher wildfire risk area

Future Development

Approximately every four years, the Butte County Association of Governments (BCAG) prepares long-term regional growth forecasts of housing, population, and employment for the Butte County area. The forecasts have been developed by BCAG in consultation with its Planning Directors Group which consists of representatives from each of BCAG's local jurisdiction members and the Butte Local Agency Formation Commission. A low, medium, and high scenario has been developed for each forecast of housing, population, and employment. The 2018 process has been delayed due to the regional population redistribution and uncertain re-population timeline associated with the 2018 Camp Fire. At this time, it is anticipated that the new forecasts will be available near the end of 2019. The medium scenario for the City in the 2014-2040 Regional Transportation Plan is shown in Table D-14.

Table D-14 City of Oroville – Future Population Estimates

Jurisdiction	2020	2025	2030	2035	2040
Oroville	18,673	22,264	26,928	29,332	30,816

Source: Butte County Association of Governments 2014-2040 Regional Transportation Plan

More general information on growth and development in Butte County as a whole can be found in “Growth and Development Trends” in Section 4.3.1 Butte County Vulnerability and Assets at Risk of the Base Plan.

Using GIS, the following methodology was used in determining parcel counts and values associated with future development and redevelopment projects in the City of Chico.

GIS Analysis

Butte County's 3/21/2019 Assessor Data and the County's GIS parcel data were used as the basis for the inventory of assessed values for both improved and unimproved parcels within the City. This data provides

the land and improved values assessed for each parcel. In this analysis, the parcel data was converted to a point layer using a centroid conversion process, in which each parcel was identified by a central point containing the assessor's data. In addition, Butte County provided a table containing the assessor parcel numbers (APNs) for the 260 parcels. Using the GIS parcel spatial file and the APNs, the 260 parcels associated with future development projects for which the analysis was to be performed was identified. Utilizing the future development project spatial layer, the parcel centroid data was intersected to determine the parcel counts within each area.

Figure D-8 shows the locations of future development areas the City is planning to develop. Table D-15 shows the parcels and acreages of each future development area in the City.

Figure D-8 City of Oroville – Future Development Areas

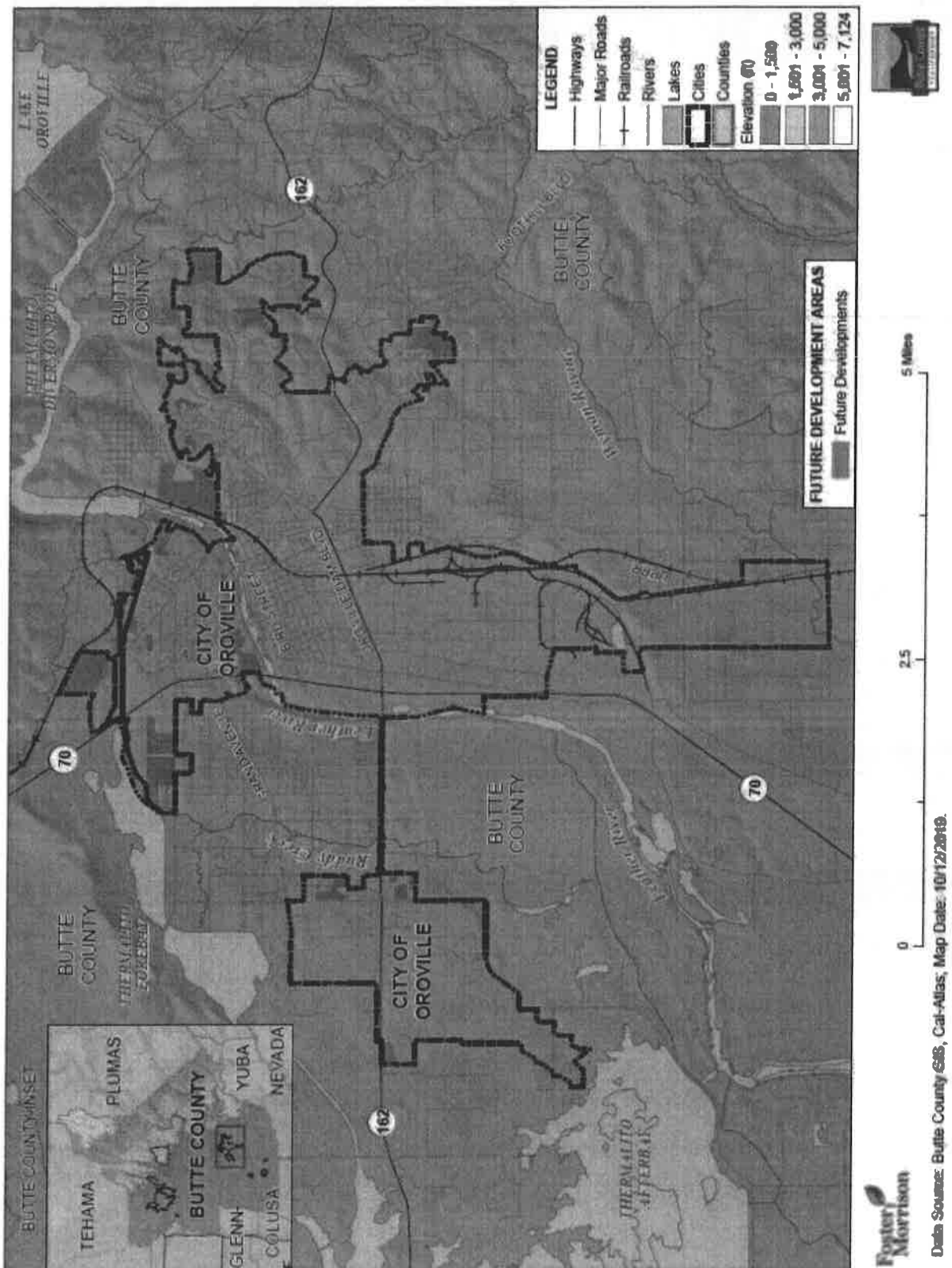


Table D-15 City of Oroville – Future Development Locations with Parcels and Acreage

Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
City of Oroville			
Acacia Estates	2	0	6.7
Buttewoods 2	3	0	56.1
Calle Vista Estates Unit II	48	44	24.4
Canal View Estates	3	0	8.4
Deer Creek Estates 2	3	0	24.3
Ford Drive	2	0	22.4
Forebay Estates	1	0	40.2
Greenview Estates	1	1	1.9
Heritage Oak Estates	3	1	46.5
Highlands Estates	1	0	13.3
Linkside Place Phase I	66	6	11.5
Martin Ranch	1	0	73.1
Mission Olive Ranch	20	2	6.8
Nelson 56	1	0	56.5
Oak Park	1	0	5.1
Rivers Edge	1	0	10.3
Riverview	4	0	38.8
Rosewood Estates	1	0	5.0
Vista Del Oro	95	22	15.2
City of Oroville Total	257	76	466.4
Unincorporated Butte County			
Oak Park	3		94.3
Unincorporated Butte County Total	3		94.3
Grand Total	260	76	560.6

Source: City of Oroville

D.5.3. Vulnerability to Specific Hazards

This section provides the vulnerability assessment, including any quantifiable loss estimates, for those hazards identified above in Table D-5 as high or medium significance hazards. Impacts of past events and vulnerability of the City to specific hazards are further discussed below (see Section 4.1 Hazard Identification in the Base Plan for more detailed information about these hazards and their impacts on the Butte County Planning Area). Methodologies for calculating loss estimates are the same as those described in Section 4.3 of the Base Plan.

An estimate of the vulnerability of the City to each identified priority hazard, in addition to the estimate of risk of future occurrence, is provided in each of the hazard-specific sections that follow. Vulnerability is measured in general, qualitative terms and is a summary of the potential impact based on past occurrences, spatial extent, and damage and casualty potential. It is categorized into the following classifications:

- **Extremely Low**—The occurrence and potential cost of damage to life and property is very minimal to nonexistent.
- **Low**—Minimal potential impact. The occurrence and potential cost of damage to life and property is minimal.
- **Medium**—Moderate potential impact. This ranking carries a moderate threat level to the general population and/or built environment. Here the potential damage is more isolated and less costly than a more widespread disaster.
- **High**—Widespread potential impact. This ranking carries a high threat to the general population and/or built environment. The potential for damage is widespread. Hazards in this category may have occurred in the past.
- **Extremely High**—Very widespread with catastrophic impact.

Depending on the hazard and availability of data for analysis, this hazard specific vulnerability assessment also includes information on values at risk, critical facilities and infrastructure, populations at risk, and future development.

Dam Failure

Likelihood of Future Occurrence—Occasional

Vulnerability—High

Hazard Profile and Problem Description

Dams are manmade structures built for a variety of uses including flood protection, power generation, agriculture, water supply, and recreation. When dams are constructed for flood protection, they are usually engineered to withstand a flood with a computed risk of occurrence. For example, a dam may be designed to contain a flood at a location on a stream that has a certain probability of occurring in any one year. If prolonged periods of rainfall and flooding occur that exceed the design requirements, that structure may be overtopped or fail. Overtopping is the primary cause of earthen dam failure in the United States.

Location and Extent

Oroville is downstream of multiple dams (which are discussed in greater detail and mapped in the vulnerability section below), the largest of which is Oroville Dam. The Oroville Dam sits east of Oroville's City Center, nestled at the mouth of the Feather River Canyon. At 770 feet tall and 6,920 feet long, the Oroville Dam is one of the 20 largest dams in the world and impounds the second largest reservoir in California. Lake Oroville has a capacity of 3.5 million-acre feet and is the principal water storage facility of the State Water Project (SWP). Flows from the failure of these dams could inundate non-urban portions of the Planning Area. These dams and their inundation areas are discussed in greater detail in the vulnerability section below. Dam failure is a natural disaster from two perspectives. First, the inundation from released waters resulting from dam failure is related to naturally occurring floodwaters. Second, dam failure would most probably happen as a consequence of the natural disaster triggering the event, such as

an earthquake. There is no scale with which to measure dam failure. While a dam may fill slowly with runoff from winter storms, a dam break has a very quick speed of onset. The duration of dam failure is not long – only as long as it takes to empty the reservoir of water the dam held back. The City would be affected for as long as the flood waters from the dam failure took to drain downstream. Geographical flood extent from the Cal OES dam inundation zones is shown in Table D-16. Note, the Cal OES dam inundation data did not include inundation mapping of all dams of concern to the Butte County Planning Area; thus, the below analysis reflects information based on available data. Other dams may be identified as a concern to the City.

Table D-16 City of Oroville – Geographical Dam Inundation Extents

Dam Inundation Area	Total Acres	% of Total Acres	Improved Acres	% of Total Improved Acres	Unimproved Acres	% of Total Unimproved Acres
Lake Almanor	1,804	22.83%	789	9.99%	1,015	12.85%
Miners Ranch	27	0.34%	0	0.00%	27	0.34%
Oroville	6,166	78.04%	2,310	29.24%	3,856	48.80%
Thermalito Diversion	213	2.70%	7	0.09%	206	2.61%

Source: Cal OES

Past Occurrences

February 11, 2017 – Heavy rainfall during the 2017 California floods damaged the main spillway on February 7, so the California Department of Water Resources stopped the spillway flow to assess the damage and contemplate its next steps. The rain eventually raised the lake level until it flowed over the emergency spillway, even after the damaged main spillway was reopened. As water flowed over the emergency spillway, headward erosion threatened to undermine and collapse the concrete weir, which could have sent a 30-foot wall of water into the Feather River below and flooded communities downstream. No collapse occurred, but the water further damaged the main spillway and eroded the bare slope of the emergency spillway. An evacuation order was put out for the City of Oroville.

Vulnerability to Dam Failure

Dam failure flooding would vary by community depending on which dam fails and the nature and extent of the dam failure and associated flooding. Based on the vulnerability assessment in the Base Plan, it is apparent that a major dam failure could have a significant impact on the City.

Failure of the Oroville Dam could result in release of water held behind the dam, and inundation of much of the City and surrounding area. A major seismic event would be the most likely cause of dam failure. A number of geologic faults have been mapped in the Oroville area which could cause a seismic event. Landslides around the reservoir rim have occurred since Lake Oroville has been in operation. These landslides are not considered to pose a threat to the freeboard of the dam or the safety of the public.

In addition to Oroville Dam, the City is in the inundation area for Lake Almanor, Miner's Ranch, and Thermalito Diversion.

Impacts

Impacts to the City from a dam failure flood include damage to residential and commercial property, damage to critical facilities, damage to infrastructure, damage to levees that protect the City, and injuries or deaths to citizens of the City. Evacuations caused by potential dam failures can also cause significant disruption to the City and result in economic impacts to the City and its residents.

Values at Risk

Based on the vulnerability assessment in the Base Plan, it is apparent that a major dam failure could have a significant impact on the City. The City is located in four Cal OES mapped dam inundation areas as described in Section 4.3.4 of the Base Plan. These four dams are:

- Oroville (an extremely high hazard dam, as seen on Figure D-9)
- Lake Almanor (a high hazard dam, as seen on Figure D-10)
- Miner's Ranch (a high hazard dam, as seen on Figure D-10)
- Thermalito Diversion (a high hazard dam, as seen on Figure D-10)

Figure D-9 City of Oroville – Extremely High Dam Inundation Areas

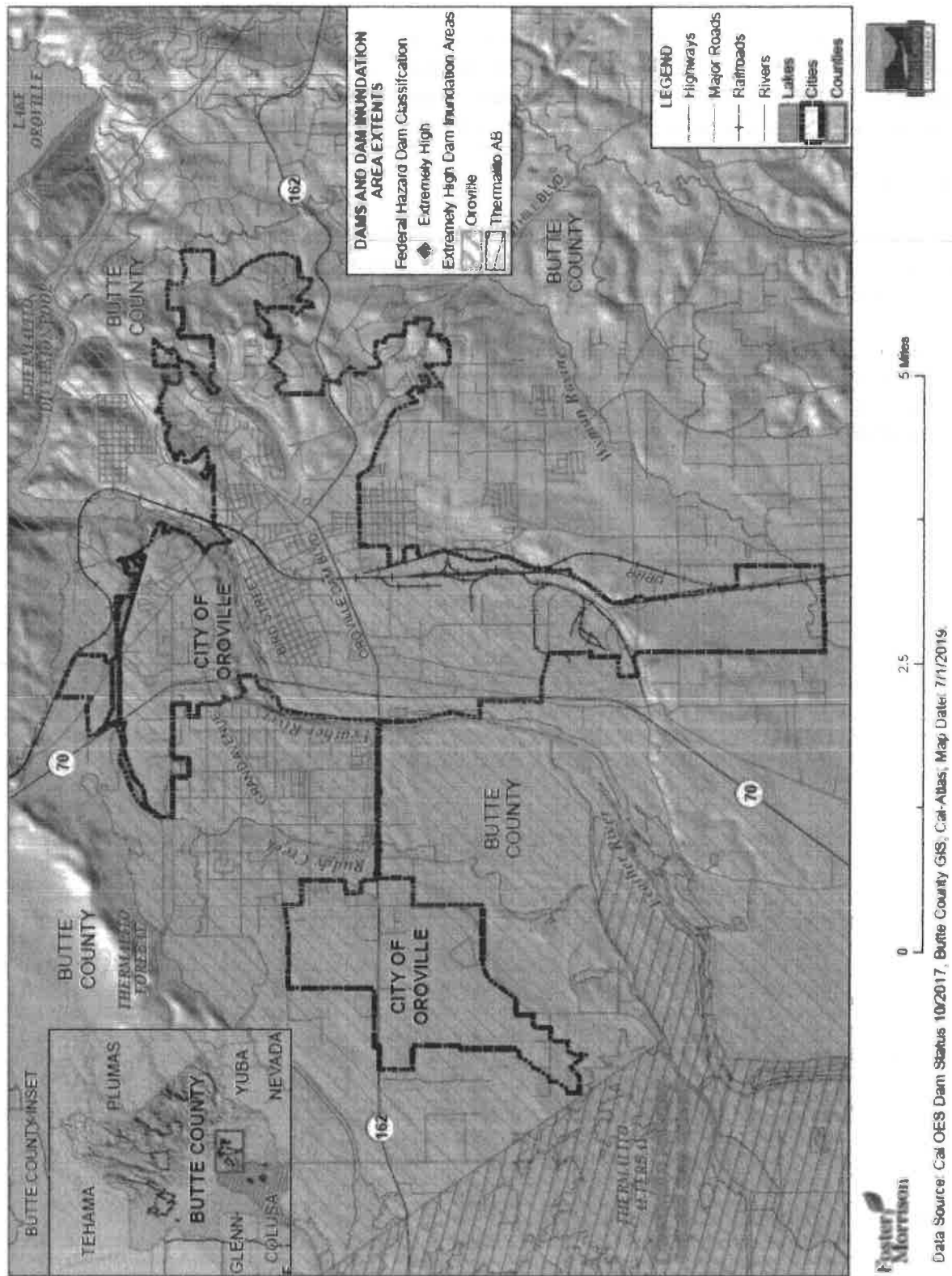
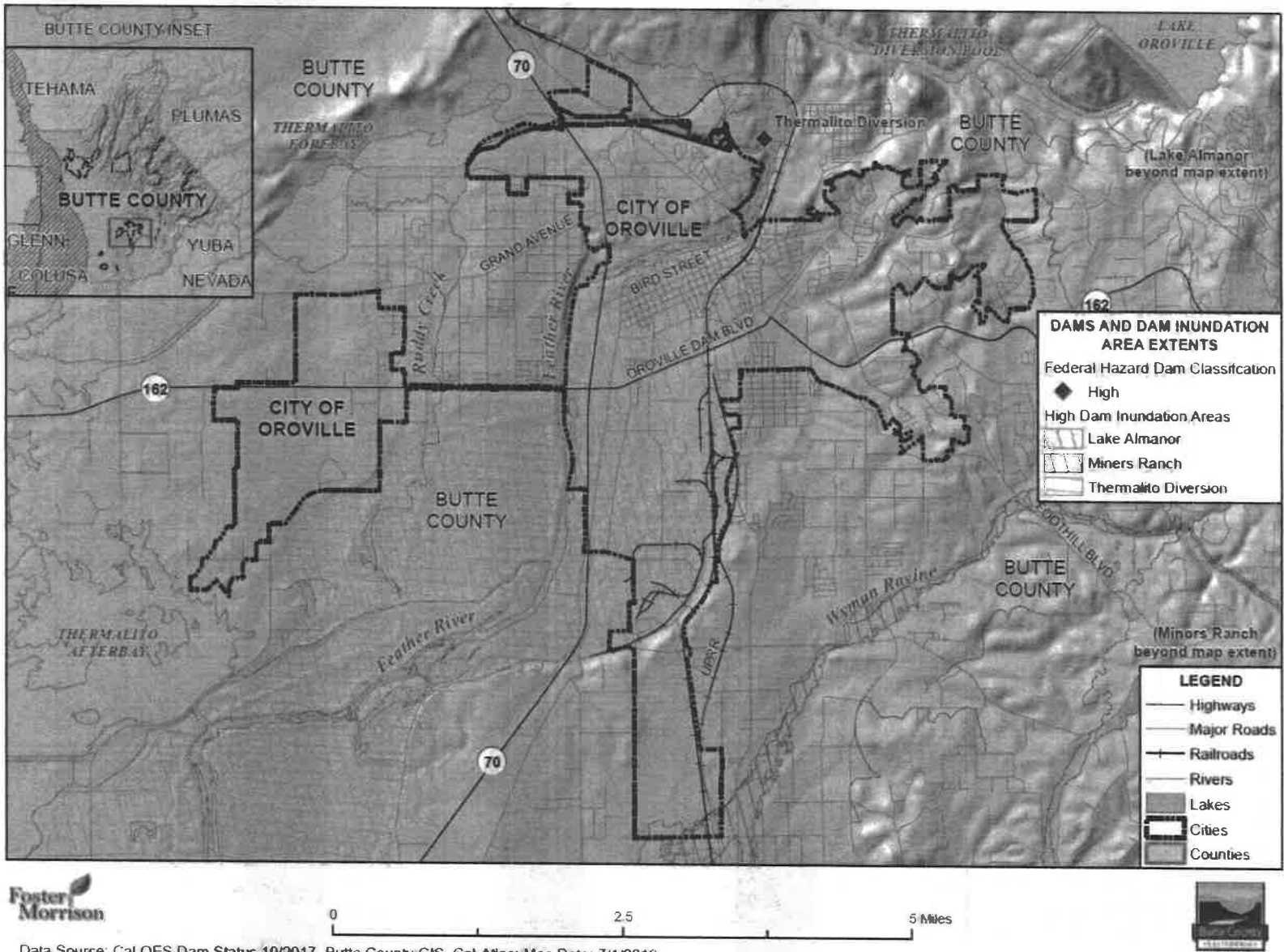


Figure D-10 City of Oroville – High Dam Inundation Areas



GIS was used to determine the possible impacts of dam failure flooding within the City of Oroville. The methodology described in Section 4.3.4 of the Base Plan was followed in determining structures and values at risk. Multiple analysis tables were created:

- Table D-17 shows the total parcel counts, improved parcel counts, their improved structure and land values in the singular extremely high hazard dam inundation area.
- Table D-18 shows the total parcel counts, improved parcel counts, their improved structure and land values in the three high hazard dam inundation areas.
- Table D-19 shows the total parcel counts, improved parcel counts, their improved structure and land values in the Oroville inundation areas.
- Table D-20 shows the total parcel counts, improved parcel counts, their improved structure and land values in the Lake Almanor dam inundation area
- Table D-21 shows the total parcel counts, improved parcel counts, their improved structure and land values in the Miner's Ranch dam inundation area
- Table D-22 shows the total parcel counts, improved parcel counts, their improved structure and land values in the Thermalito Diversion dam inundation area

Table D-17 City of Oroville – Count and Value of Parcels in All Extremely High Hazard Dam Inundation Areas

Jurisdiction	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
City of Oroville	6,262	4,802	\$276,524,176	\$776,873,996	\$60,972,453	\$585,978,221	\$1,584,003,840

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-18 City of Oroville – Count and Value of Parcels in All High Hazard Dam Inundation Areas

Jurisdiction	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
City of Oroville	1,563	1,094	\$91,571,747	\$232,439,950	\$44,211,667	\$216,261,801	\$577,213,784

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-19 City of Oroville – Count and Value at Risk in Oroville Dam Inundation Area by Property Use

Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Agricultural	6	0	\$658,274	\$0	\$7,947	\$0	\$666,221
Commercial	1,007	678	\$100,544,300	\$315,471,114	\$18,639,996	\$315,471,114	\$657,575,440
Industrial	221	71	\$25,400,597	\$39,962,799	\$42,318,610	\$59,944,199	\$191,571,855
Residential	4,873	4,051	\$149,856,487	\$421,125,817	\$5,900	\$210,562,909	\$733,812,671
Unknown	155	2	\$64,518	\$314,266	\$0	\$0	\$377,654
City of Oroville Total	6,262	4,802	\$276,524,176	\$776,873,996	\$60,972,453	\$585,978,221	\$1,584,003,840

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-20 City of Oroville – Count and Value at Risk in Lake Almanor Dam Inundation Area by Property Use

Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	588	389	\$48,610,851	\$129,523,449	\$3,349,747	\$129,523,449	\$291,312,775
Industrial	147	48	\$21,260,503	\$35,437,234	\$40,861,920	\$53,155,851	\$174,080,348
Residential	749	655	\$21,616,845	\$67,165,001	\$0	\$33,582,501	\$111,422,847
Unknown	78	2	\$63,388	\$314,266	\$0	\$0	\$377,654
City of Oroville Total	1,562	1,094	\$91,551,587	\$232,439,950	\$44,211,667	\$216,261,801	\$577,193,624

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-21 City of Oroville – Count and Value at Risk in Miner's Ranch Dam Inundation Area by Property Use

Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	1	0	\$20,160	\$0	\$0	\$0	\$20,160
Industrial	0	0	\$0	\$0	\$0	\$0	\$0
Residential	0	0	\$0	\$0	\$0	\$0	\$0
Unknown	0	0	\$0	\$0	\$0	\$0	\$0
City of Oroville Total	1	0	\$20,160	\$0	\$0	\$0	\$20,160

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-22 City of Oroville – Count and Value at Risk in Thermalito Diversion Dam Inundation Area by Property Use

Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	6	2	\$212,547	\$291,443	\$184,125	\$291,443	\$982,248
Industrial	9	1	\$331,356	\$150,858	\$0	\$226,287	\$708,501
Residential	14	2	\$584,056	\$385,261	\$0	\$192,631	\$1,157,948
Unknown	8	0	\$0	\$0	\$0	\$0	\$0
City of Oroville Total	37	5	\$1,127,959	\$827,562	\$184,125	\$710,361	\$2,848,697

Source: Cal OES, Butte County 3/28/2019 Parcel/Assessor's Data

Population at Risk

The Cal OES dam inundation areas were overlayed on the parcel layer. Those residential parcel centroids that intersect the dam inundation zones were counted and multiplied by the 2010 Census Bureau average household factors for Oroville – 2.60. According to this analysis, there is a total population of 0 residents of the City at risk to dam failure flooding from these four dams. This is shown in Table D-43.

Table D-23 City of Oroville – Count of Improved Residential Parcels and Population by Flood Zone

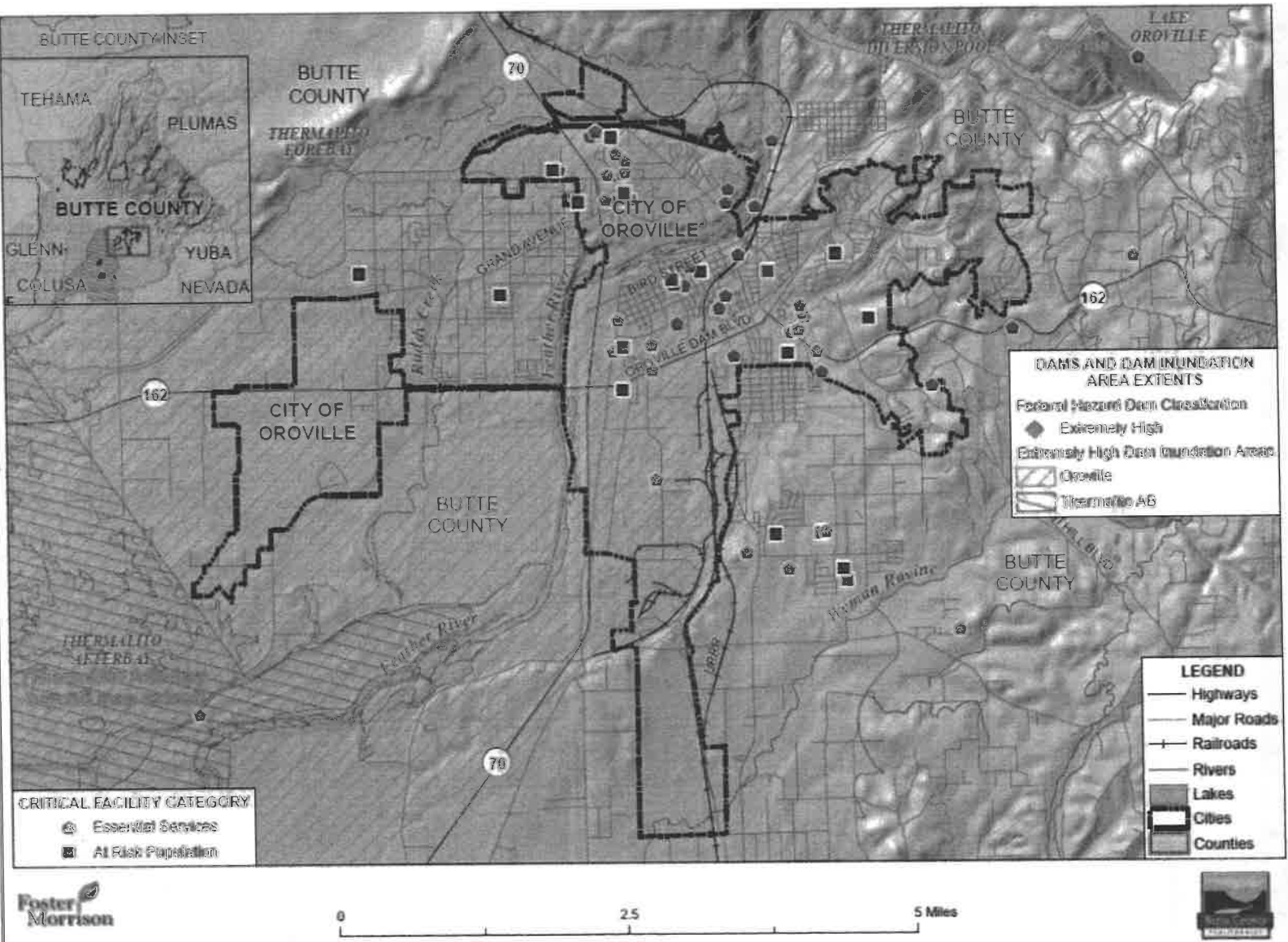
Jurisdiction	Oroville Dam Inundation Area		Lake Almanor Dam Inundation Area		Miner's Ranch Dam Inundation Area		Thermalito Diversion Dam Inundation Area	
	Improved Residential Parcels	Population	Improved Residential Parcels	Population	Improved Residential Parcels	Population	Improved Residential Parcels	Population
Oroville	4,051	10,533	655	1,703	0	0	2	5

Source: FEMA DFIRM 1/6/2011, Butte County 3/28/2019 Parcel/Assessor's Data, US Census Bureau

Critical Facilities at Risk

An analysis was performed on the critical facility inventory in Oroville in identified dam inundation areas. GIS was used to determine whether the facility locations intersects a Cal OES dam inundation area. Details of critical facilities in extremely high hazard dam inundation areas in the City of Oroville are shown in Figure D-11 and detailed in Table D-24. Details of critical facilities in high hazard dam inundation areas in the City of Oroville are shown in Figure D-12 and detailed in Table D-25. Details of critical facility definition, type, name and address and jurisdiction by flood zone are listed in Appendix F.

Figure D-11 City of Oroville - Critical Facilities in Extremely High Hazard Dam Inundation Areas



Data Source: Cal OES Dam Status 10/2017, Butte County GIS, CalAtlas, Map Date: 7/1/2019.

Table D-24 City of Oroville – Critical Facilities in Extremely High Hazard Dam Inundation Areas

Critical Facility Category	Facility Count
Essential Services Facilities	3
At Risk Population Facilities	4
City of Oroville Total	7

Source: Cal OES, Butte County GIS

Figure D-12 City of Oroville - Critical Facilities in High Hazard Dam Inundation Areas

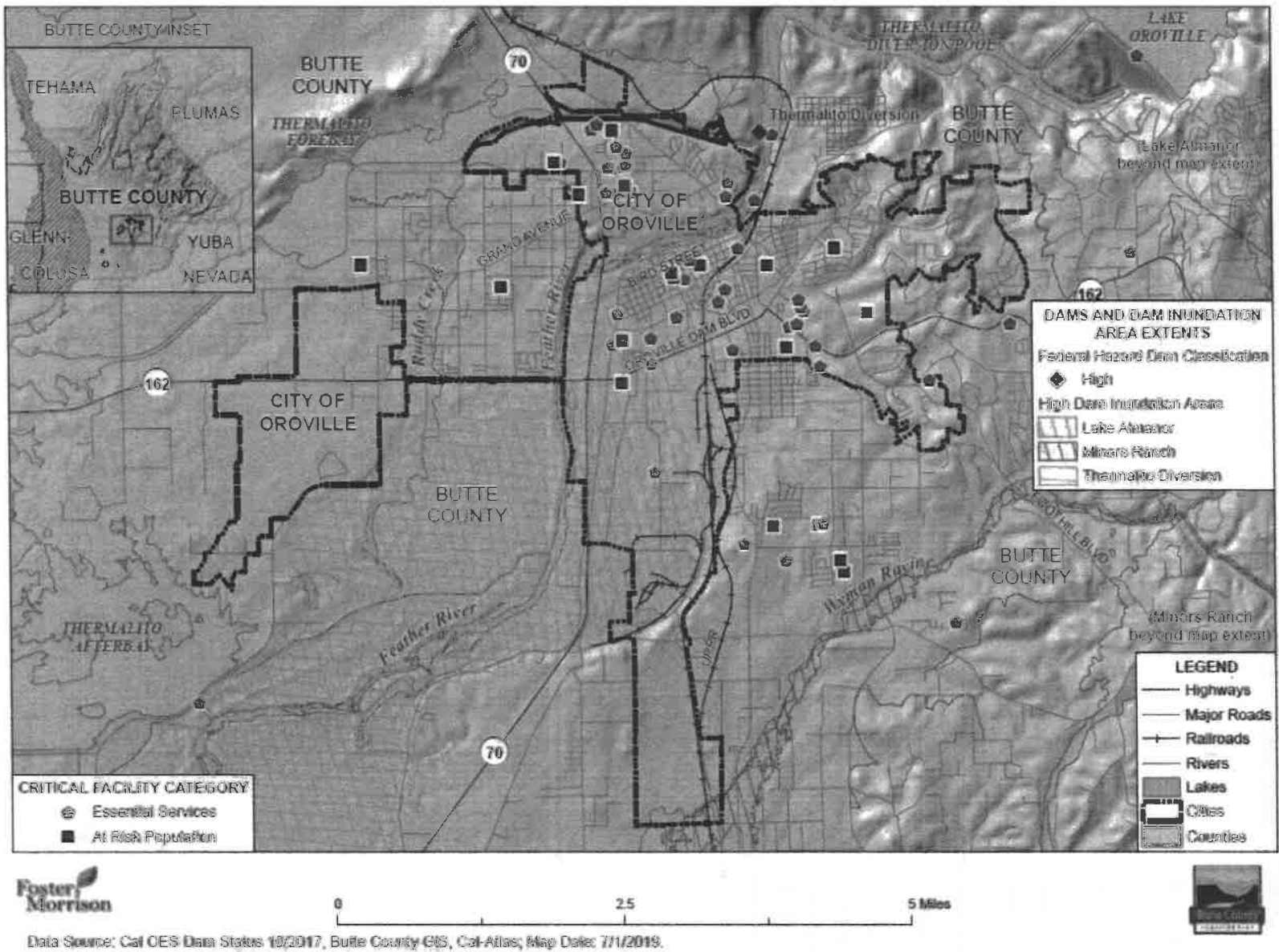


Table D-25 City of Oroville – Critical Facilities in High Hazard Dam Inundation Areas

Critical Facility Category	Facility Count
Essential Services Facilities	9
At Risk Population Facilities	6
City of Oroville Total	15

Source: Cal OES, Butte County GIS

Future Development

Although new growth and development corridors would fall in the area flooded by a dam failure, given the small chance of total dam failure and the large area that a dam failure would affect, development in the dam inundation area will continue to occur.

GIS Analysis

Butte County's 3/21/2019 Assessor Data and the County's GIS parcel data were used as the basis for the inventory of assessed values for both improved and unimproved parcels within the City. Using GIS, the 260 parcels associated with future development projects for which the analysis was to be performed was identified. Future development in extremely high hazard dam inundation areas is shown on Figure D-13 and detailed in Table D-26. Future development in high hazard dam inundation areas is shown on Figure D-13 and detailed in Table D-27,

Table D-26 City of Oroville – Future Development Parcel Counts and Acreage in Extremely High Dam Inundation Areas

Extremely High Dam Inundation Area / Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
Oroville Dam			
City of Oroville			
Acacia Estates	2	0	6.7
Calle Vista Estates Unit II	48	44	24.4
Canal View Estates	3	0	8.4
Deer Creek Estates 2	3	0	24.3
Forebay Estates	1	0	40.2
Greenview Estates	1	1	1.9
Heritage Oak Estates	3	1	46.5
Highlands Estates	1	0	13.3
Linkside Place Phase I	66	6	11.5
Martin Ranch	1	0	73.1
Mission Olive Ranch	20	2	6.8
Nelson 56	1	0	56.5
Oak Park	1	0	5.1
Rivers Edge	1	0	10.3
Riverview	4	0	38.8
Rosewood Estates	1	0	5.0
Vista Del Oro	95	22	15.2
Oroville Dam Total	252	76	387.9
Unincorporated Butte County			
Oak Park	3	0	94.3
Unincorporated Butte County Total	3	0	94.3
Extremely High Dam Inundation Area Total			
	255	76	482.1

Source: Cal OES, City of Oroville GIS, Butte County 3/28/2019 Parcel/Assessor's Data

Figure D-14 City of Oroville - Future Development in High Hazard Dam Inundation Areas

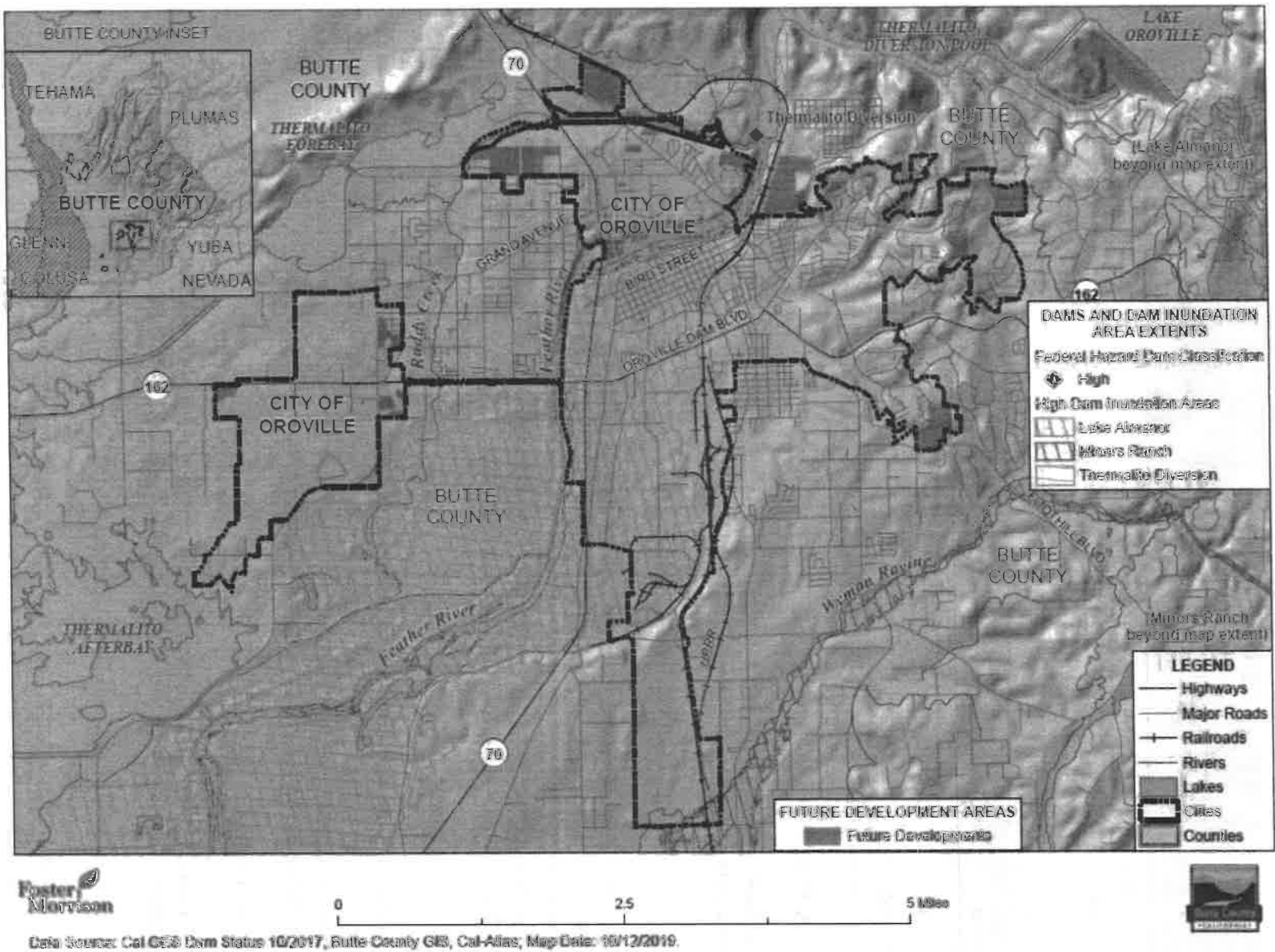


Table D-27 City of Oroville – Future Development Parcel Counts and Acreage in High Dam Inundation Areas

High Dam Inundation Areas / Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
Lake Almanor			
City of Oroville			
Oak Park	1	0	5.1
Riverview	4	0	38.8
Lake Almanor Total	5	0	43.9
Thermalito Diversion			
City of Oroville			
Riverview	2	0	17.7
Thermalito Total	2	0	17.7

Source: Cal OES, City of Oroville GIS, Butte County 3/28/2019 Parcel/Assessor's Data

Drought and Water Shortage

Likelihood of Future Occurrence–Likely

Vulnerability–Medium

Hazard Profile and Problem Description

Drought is different than many of the other natural hazards in that it is not a distinct event and usually has a slow onset. Drought can severely impact a region both physically and economically. Drought affects different sectors in different ways and with varying intensities. Adequate water is the most critical issue and is critical for manufacturing, tourism, recreation, and commercial and domestic use. As the population in the area continues to grow, so will the demand for water.

Location and Extent

As discussed in the Base Plan, drought and water shortage are regional phenomenon. The whole of the County, as well as the whole of the City, is at risk. Drought has a slow speed of onset and a variable duration. Drought can last for a short period of time, which does not usually affect water shortages. Should a drought last for a long period of time, water shortage becomes a larger issue.

Past Occurrences

Since drought is a regional phenomenon, past occurrences of drought for Oroville are the same as those for the County. Those past occurrences can be found in Section 4.2.8 of the Base Plan.

Vulnerability to Drought and Water Shortage

Based on historical information, the occurrence of drought in California, including the City of Oroville, is cyclical, driven by weather patterns. Drought has occurred in the past and will occur in the future. Periods

of actual drought with adverse impacts can vary in duration, and the period between droughts is often extended. Although an area may be under an extended dry period, determining when it becomes a drought is based on impacts to individual water users. The vulnerability of the City of Oroville to drought is City-wide, but impacts may vary and include reduction in water supply and an increase in dry fuels. The increased dry fuels result in an increased fire danger. Areas of Oroville are in the foothill interface and become more susceptible to wildfire as drought conditions increase. Residents of these areas are often times dependent upon ground water (water wells), as these water wells begin to fail the ability of the residents to water landscaping decreases, fire fuel loads increase.

Impacts

The most significant qualitative impacts associated with drought in the planning area are those related to water intensive activities such as wildfire protection, municipal usage, commerce, tourism, and recreation. Voluntary conservation measures are typically implemented during extended droughts. A reduction of electric power generation and water quality deterioration are also potential problems. Drought conditions can also cause soil to compact and not absorb water well, potentially making an area more susceptible to flooding.

Future Development

As the population in the area continues to grow, so will the demand for water. Water shortages in the future may be worsened by drought. Increased planning will be needed to account for population growth and increased water demands.

Earthquake (minor/major) and Liquefaction

Likelihood of Future Occurrence—Occasional/Unlikely

Vulnerability—Medium

Hazard Profile and Problem Description

The State of California has identified five areas of critical seismic concern including surface ruptures, ground shaking, ground failure, tsunamis, and seiches. Each of these is caused by earthquake activity thereby creating hazards for life and property, which has the potential anywhere in California. Oroville is not at risk for tsunamis or seiches due to its inland location and the absence of nearby large bodies of water. Due to the proximity of the City to the Cleveland Hills Fault, the City can expect low to medium intensity shocks from time to time. These earthquakes can cause liquefaction within the City. Liquefaction is a process whereby soil is temporarily transformed to a fluid formed during intense and prolonged ground shaking.

Location and Extent

Since earthquakes are regional events, the whole of the City is at risk to earthquake. Chico and the surrounding area are relatively free from significant seismic and geologic hazards. There are no known or inferred active faults within the City. The only known active fault in Butte County is the Cleveland Hills fault, the site of the August 1975 Oroville earthquake. This earthquake had a Richter magnitude of 5.7. Due

to the proximity of the City to the nearby Cleveland Hills Fault, the City can expect low to medium intensity shocks from time to time.

The amount of energy released during an earthquake is usually expressed as a magnitude and is measured directly from the earthquake as recorded on seismographs. An earthquake's magnitude is expressed in whole numbers and decimals (e.g., 6.8). Seismologists have developed several magnitude scales, as discussed in Section 4.2.10 of the Basic Plan.

The City of Oroville 2030 General Plan Safety Element noted that in addition to mapped known faults, there are a large number of other faults within Butte County and in neighboring areas that could be considered potentially active, based on criteria developed by the California Department of Mines and Geology. Within Butte County, faults that are considered by some geologists to be potentially active include the Big Bend fault, which is thought to be capable of generating an earthquake of up to magnitude 7.0 in Butte County; the Foothill shear zone, which extends into southern Butte County, and the Chico monocline fault, which could produce an earthquake of up to magnitude 7.0, having the most significant impacts in the Chico area but which could also severely affect other parts of the county, including Oroville. Other mapped, active faults in the wider region, outside of Butte County, have the potential to generate seismic activity that could be felt in Oroville. These include:

- The Midland-Schweitzer Fault, an approximately 80-mile-long fault found about 60 miles southwest of Oroville.
- The northern section of the 350-mile long San Andreas Fault located about 115 miles west of Oroville.
- The Hayward-Calaveras Fault complex in the San Francisco Bay Area, located approximately 120 miles southwest of Oroville.
- The Russell Fault, located about 70 miles east of Oroville, which was associated with a major earthquake of up to magnitude 6.5 in 1966.
- The Last Chance-Honey Lake Fault located along the California/Nevada border to the east of Oroville.
- The Willows fault is located about 30 miles west of the Oroville, and the Coast Ranges thrust zone is located about 60 miles west of the City.

Another measure of earthquake severity is intensity. Intensity is an expression of the amount of shaking at any given location on the ground surface. Seismic shaking is typically the greatest cause of losses to structures during earthquakes. The City is located in an area where few earthquakes of significant magnitude occur, so both magnitude and intensity of earthquakes are expected to remain low. Geographical liquefaction potential extents for the City of Oroville from the Butte County 2030 General Plan are shown in Table D-28.

Table D-28 City of Oroville – Geographical Extents of Liquefaction Potential by Jurisdiction

Liquefaction Potential	Total Acres	% of Total Acres	Improved Acres	% of Total Improved Acres	Unimproved Acres	% of Total Unimproved Acres
Generally High	0	0.00%	0	0.00%	0	0.00%
Generally Moderate	2,586	32.73%	1,100	13.92%	1,486	18.81%
Generally Low	5,212	65.97%	1,782	22.55%	3,430	43.41%

Source: Butte County General Plan 2030

Past Occurrences

As shown in the Base Plan, only the 1975 5.7 Oroville earthquake federal disaster declaration has occurred in the County. The HMPC noted no other past occurrences of earthquakes or liquefaction that affected the City in any meaningful way.

Vulnerability to Earthquake and Liquefaction

Seismic events can have particularly negative effects on older buildings constructed of unreinforced masonry (URM), including materials such as brick, concrete and stone. The Uniform Building Code (UBC) identifies four seismic zones in the United States. The zones are numbered one through four, with Zone 4 representing the highest level of seismic hazard. The UBC establishes more stringent construction standards for areas within Zones 3 and 4. All of California lies within either Zone 3 or Zone 4. The City of Oroville is within the less hazardous Zone 3.

The General Plan Safety Element noted that where older alluvial sediments underlie the Planning Area, liquefaction potential is considered to be low. Since soils must be saturated to be at risk of liquefaction, the areas in Oroville most susceptible to liquefaction include areas within the FEMA 1% annual chance flood zone along the Feather River and other drainages, and where there are high groundwater levels.

Earthquake vulnerability is primarily based on population and the built environment. Urban areas in high seismic hazard zones are the most vulnerable, while uninhabited areas are less vulnerable. There are minimal amount of URM buildings within the City of Oroville and all of those buildings are privately owned.

Impacts from Earthquake and Liquefaction

The combination of plate tectonics and associated California coastal mountain range building geology essentially guarantees earthquake as a result of the periodic release of tectonic stresses. Butte County's mountainous terrain lies in the center of the North American and Pacific tectonic plate activity. There have been earthquakes as a result of this activity in the historic past, and there will continue to be earthquakes in the future of the California north coastal mountain region. The Cleveland Hills fault poses one of the more significant impact to Butte County and the City as it has the capabilities of producing a quake in the upwards of 6.5 or greater.

Fault ruptures itself contributes very little to damage unless the structure or system element crosses the active fault; however, liquefaction can occur further from the source of the earthquake. In general, newer construction is more earthquake resistant than older construction due to enforcement of improved building codes. Manufactured housing is very susceptible to damage because their foundation systems are rarely braced for earthquake motions. Locally generated earthquake motions and associated liquefaction, even from very moderate events, tend to be more damaging to smaller buildings, especially those constructed of unreinforced masonry, as was seen in the Oroville earthquake.

Earthquake Analysis

Due to the limited amount of earthquake risk in the County and City, Hazus earthquake analysis was performed on a countywide basis only. This can be found in Section 4.3.6 of the Base Plan.

Liquefaction GIS Analysis

GIS was used to determine the possible impacts of liquefaction within the City of Oroville. The methodology described in Section 4.3.6 of the Base Plan was followed in determining structures and values at risk to the earthquake-based liquefaction.

Values at Risk

Liquefaction potential zones for the City of Oroville are shown on Figure D-15. As seen on this map, portions of the City are in the Generally Low and Moderate areas. Table D-29 gives a summary of parcel counts and values in the liquefaction area in the City of Oroville. Table D-30 shows the property use, improved parcel count, improved values, estimated contents, total values and estimated loss of parcels that fall in a liquefaction area in the City.

Figure D-15 City of Oroville – Liquefaction Potential

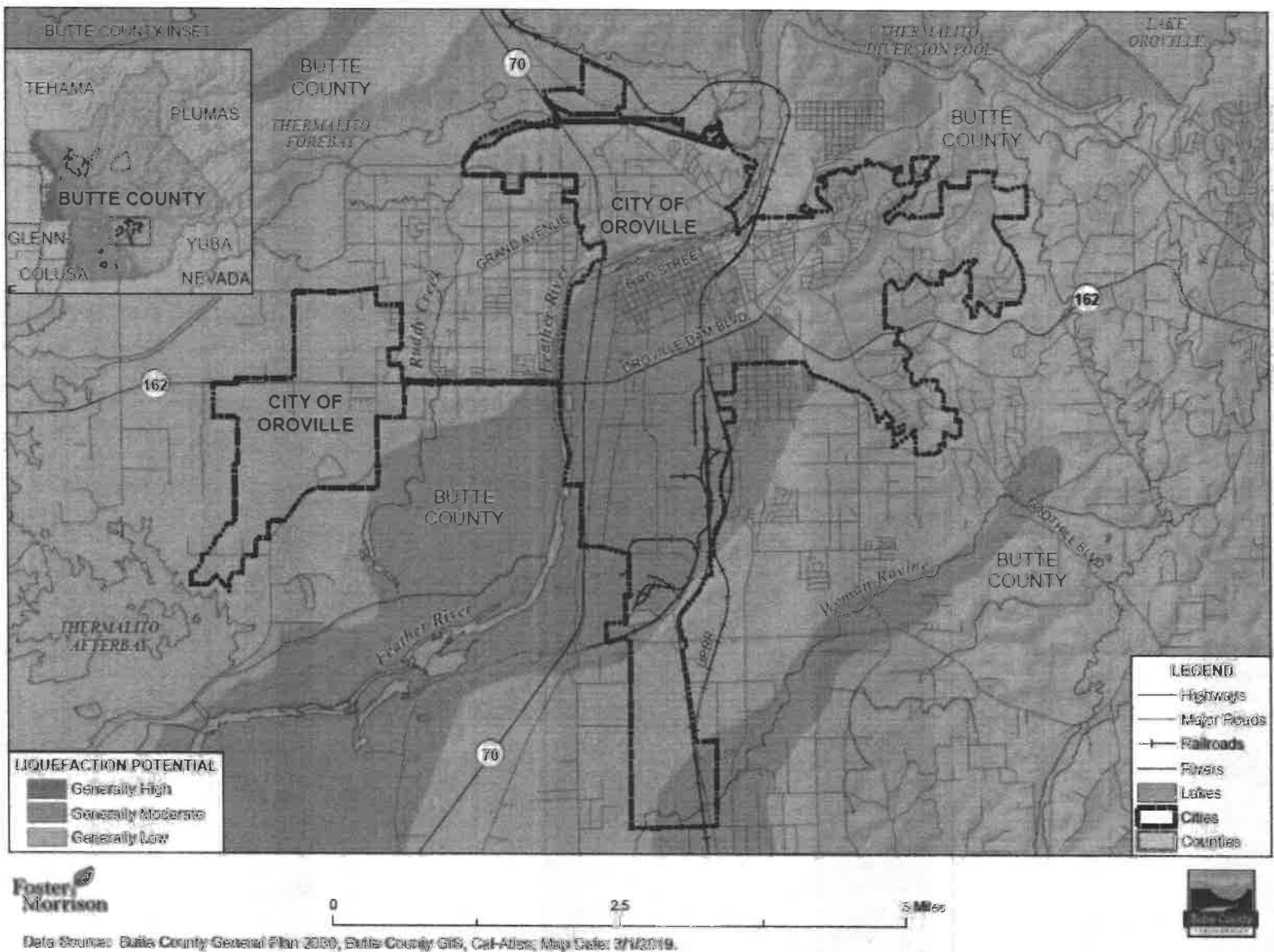


Table D-29 City of Oroville – County and Value of Parcels by Liquefaction Potential

Liquefaction Potential	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Generally Moderate	2,835	2,212	\$130,315,875	\$324,850,206	\$46,863,176	\$285,294,073	\$770,340,217
Generally Low	4,310	3,289	\$190,035,763	\$559,325,042	\$14,478,187	\$366,210,936	\$1,012,660,410
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 2030 General Plan, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-30 City of Oroville – County and Value of Parcels by Liquefaction Potential and Property Use

Liquefaction Potential / Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Generally Moderate							
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	741	526	\$69,671,761	\$168,438,596	\$4,544,566	\$168,438,596	\$386,467,487
Industrial	185	66	\$23,812,762	\$38,806,805	\$42,318,610	\$58,210,208	\$187,094,035
Residential	1,812	1,618	\$36,767,964	\$117,290,539	\$0	\$58,645,270	\$196,401,042
Unknown	97	2	\$63,388	\$314,266	\$0	\$0	\$377,654
Generally Moderate Total	2,835	2,212	\$130,315,875	\$324,850,206	\$46,863,176	\$285,294,073	\$770,340,217
Generally Low							
Agricultural	9	0	\$1,291,076	\$0	\$7,947	\$0	\$1,299,023
Commercial	301	173	\$38,161,986	\$170,512,897	\$14,463,240	\$170,512,897	\$319,950,025
Industrial	42	6	\$2,244,535	\$1,291,966	\$0	\$1,937,949	\$5,474,450
Residential	3,893	3,110	\$148,337,036	\$387,520,179	\$7,000	\$193,760,090	\$685,936,912
Unknown	65	0	\$1,130	\$0	\$0	\$0	\$0
Generally Low Total	4,310	3,289	\$190,035,763	\$559,325,042	\$14,478,187	\$366,210,936	\$1,012,660,410
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 2030 General Plan, Butte County 3/28/2019 Parcel/Assessor's Data

Population at Risk

The liquefaction potential areas were overlayed on the parcel layer. Those residential parcel centroids that intersect the liquefaction potential areas were counted and multiplied by the 2010 Census Bureau average household factors for Oroville – 2.60. According to this analysis, there is a total population of 4,207 residents of the City at risk to liquefaction in the Generally Moderate area, with no population in the

Generally High area. This is shown in Table D-31. The remainder of the population falls in the Generally Low area.

Table D-31 City of Oroville – Count of Improved Residential Parcels and Population by Liquefaction Potential Area

Jurisdiction	Generally Moderate		Generally High	
	Improved Residential Parcels	Population	Improved Residential Parcels	Population
Oroville	1,618	4,207	0	0

Source: Butte County 2030 General Plan, Butte County 3/28/2019 Parcel/Assessor's Data, US Census Bureau

Critical Facilities at Risk

An analysis was performed on the critical facility inventory in Oroville in identified liquefaction potential areas. GIS was used to determine whether the facility locations intersects a USGS liquefaction area. Details of critical facilities in a liquefaction potential areas in the City of Oroville are shown in Figure D-16 and detailed in Table D-32. Details of critical facility definition, type, name and address and jurisdiction by liquefaction potential area are listed in Appendix F.



Table D-32 City of Oroville – Critical Facilities by Liquefaction Potential

Liquefaction Potential/ Critical Facility Category / Critical Facility Type	Facility Count
Generally Moderate	
Essential Services Facilities	
Wastewater Treatment Plant	1
Health Care	13
Law Enforcement	1
Logistics Hub	3
Essential Services Facilities Total	18
At Risk Population Facilities	
School	2
At Risk Population Facilities Total	6
Generally Moderate Total	24
Generally Low	
Essential Services Facilities	
Fire	3
Health Care	2
Law Enforcement	2
Public Assembly Point / Evacuation Center	2
Radio Sites	3
Logistics Hub	3
Emergency Operation Center	1
DOC	1
Emergency Animal Shelter	1
Essential Services Facilities Total	22
At Risk Population Facilities	
School	2
At Risk Population Facilities Total	14
Generally Low Total	36
Grand Total	60

Source: Butte County General Plan, Butte County GIS

Future Development

Although new growth and development corridors would fall in the area affected by earthquake and liquefaction, given the small chance of major earthquake and the building codes in effect, development in the earthquake area will continue to occur. The City enforces the state building code, which mandates construction techniques that minimize seismic hazards. Future development in the City is subject to these building codes.

GIS Analysis

Butte County's 3/21/2019 Assessor Data and the County's GIS parcel data were used as the basis for the inventory of assessed values for both improved and unimproved parcels within the City. Using GIS, the 260 parcels associated with future development projects for which the analysis was to be performed was identified. Future development in liquefaction potential inundation areas is shown on Figure D-17 and detailed in Table D-33.

Figure D-17 City of Oroville -- Future Development in Liquefaction Potential Areas

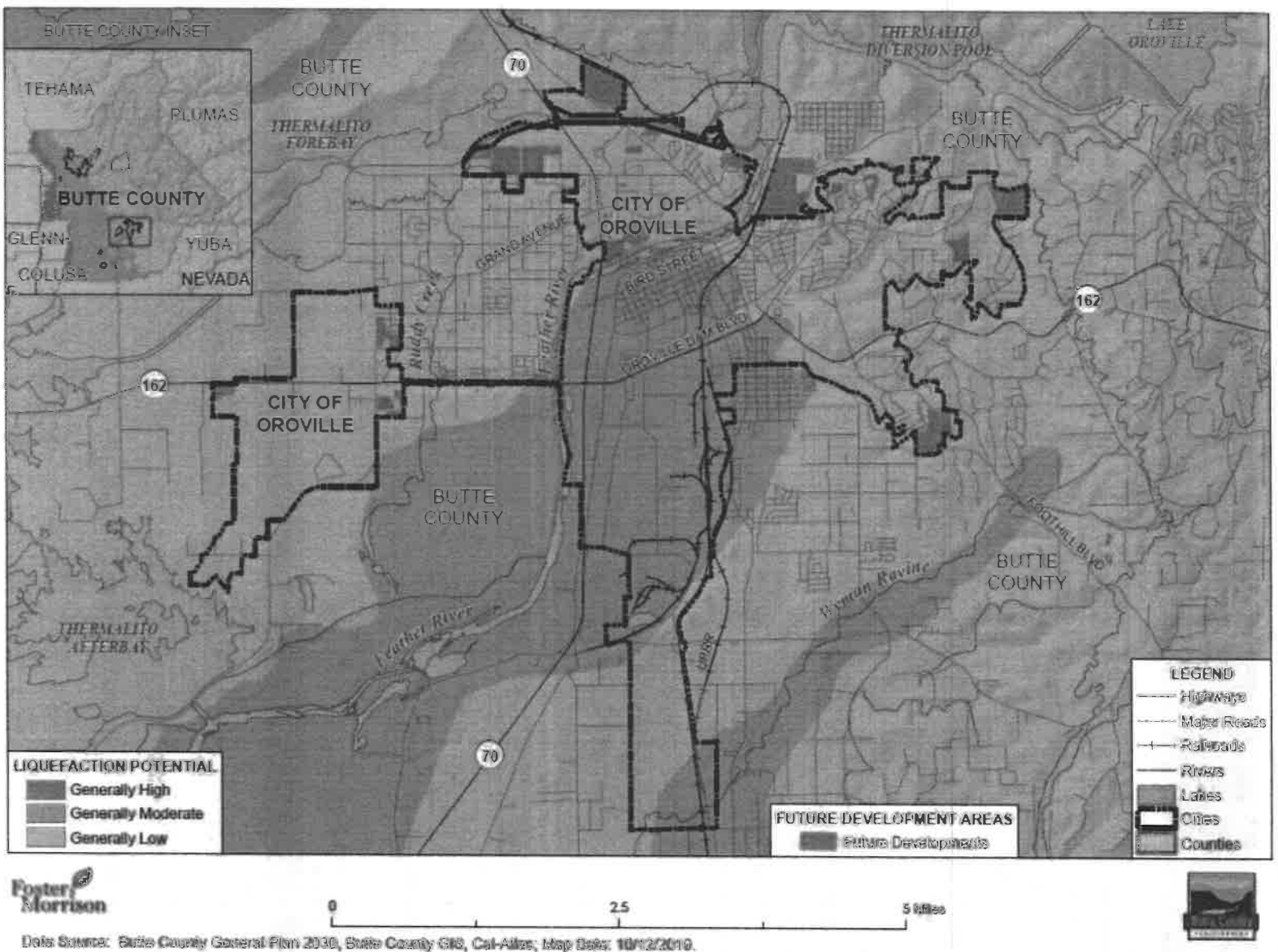


Table D-33 City of Oroville – Future Development Parcel Counts and Acreage in Liquefaction Potential Areas

Liquefaction Areas/ Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
Generally Low			
City of Oroville			
Acacia Estates	2	0	6.7
Buttewoods 2	3	0	56.1
Calle Vista Estates Unit II	48	44	24.4
Canal View Estates	3	0	8.4
Deer Creek Estates 2	3	0	24.3
Ford Drive	2	0	22.4
Forebay Estates	1	0	40.2
Greenview Estates	1	1	1.9
Heritage Oak Estates	3	1	46.5
Highlands Estates	1	0	13.3
Linkside Place Phase I	66	6	11.5
Martin Ranch	1	0	73.1
Mission Olive Ranch	20	2	6.8
Nelson 56	1	0	56.5
Oak Park	1	0	5.1
Rivers Edge	1	0	10.3
Riverview	4	0	38.8
Rosewood Estates	1	0	5.0
Vista Del Oro	95	22	15.2
City of Oroville Total	257	76	466.4
Unincorporated Butte County			
Oak Park	3	0	94.3
Unincorporated Butte County Total	3	0	94.3
Grand Total			
	260	76	560.6

Source: Butte County General Plan 2030, City of Oroville GIS, Butte County 3/28/2019 Parcel/Assessor's Data

Flood: 100/200/500-Year

Likelihood of Future Occurrence–Occasional/Unlikely
Vulnerability–Medium

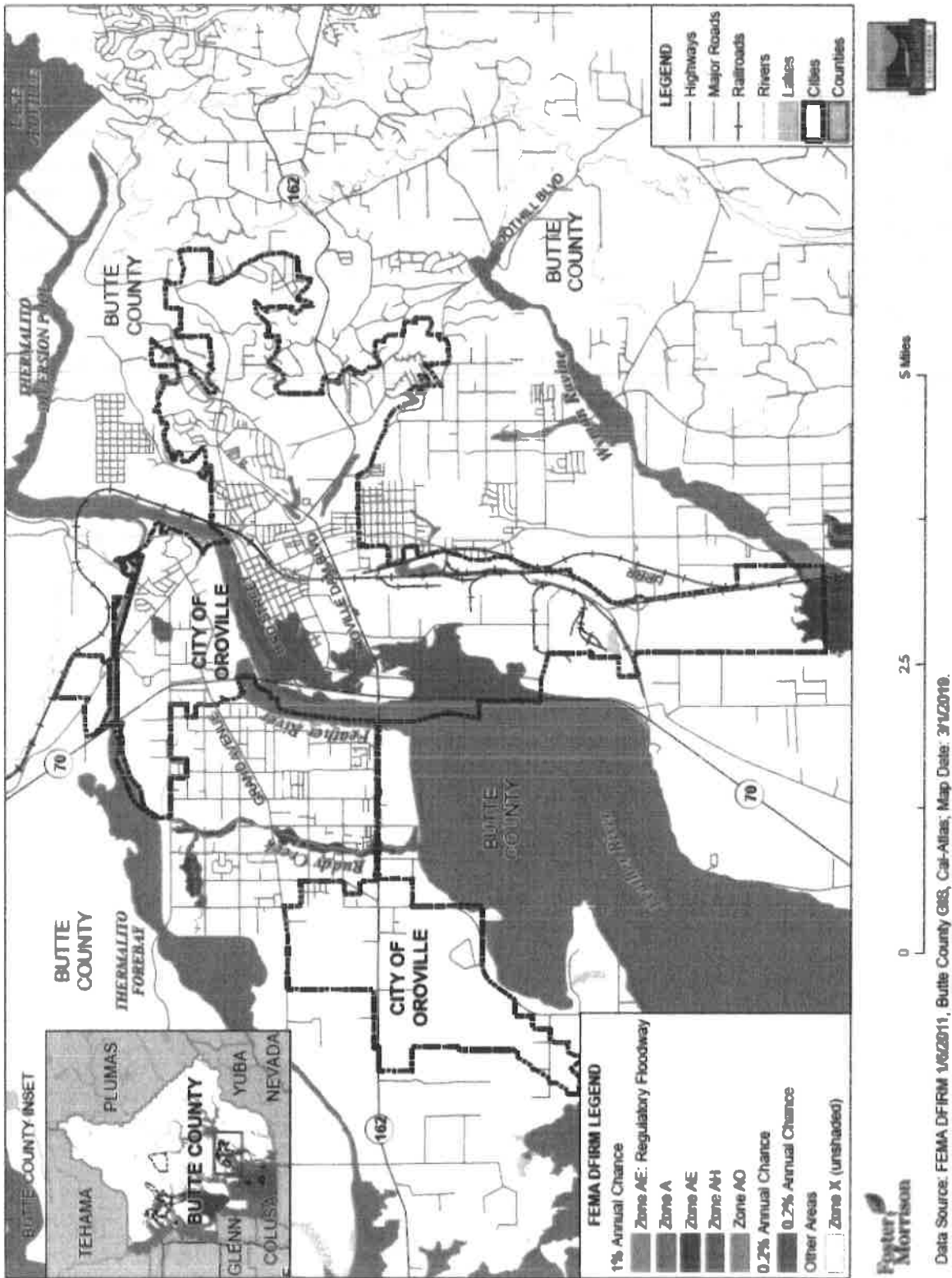
Hazard Profile and Problem Description

Flooding is an important concern throughout the entire Oroville Planning Area, with flooding hazards associated with dam failure and release of water, and flooding associated with major waterways. As previously described in Section 4.2.11 of the Base Plan, the Butte County Planning Area and the City of Oroville have been subject to historical flooding. The City of Oroville General Plan Safety Element noted that the Oroville area has historically been subject to flooding from various rivers and creeks found within the Planning Area, most particularly from the Feather River and its tributaries. Local flooding was much more prevalent prior to the construction of the Oroville Dam and its related flood control projects, which have helped to protect Oroville and many other areas of the County from serious flooding in recent years.

Location and Extent

The City of Oroville is located inside both the FEMA 1% and 0.2% annual chance flood zones. The City does not have any mapped 0.5% (200-year) flood zones. This is seen in Figure D-18.

Figure D-18 City of Oroville – FEMA DFIRM Flood Zones



Additionally, flood extents can be measured in volume, velocity, and depths of flooding. Expected flood depths in the City vary, depending on the nature and extent of a flood event; specific depths are unknown. Flood durations in the City tend to be short to medium term, or until either the storm drainage system can catch up or flood waters move downstream. Flooding in the City tends to have a shorter speed of onset, due to the amount of water that flows through the City. Geographical flood extent from the FEMA DFIRMs is shown in Table D-34.

Table D-34 City of Oroville – Geographical Flood Hazard Extents in FEMA DFIRM Flood Zones

Flood Zone	Total Acres	% of Total Acres	Improved Acres	% of Total Improved Acres	Unimproved Acres	% of Total Unimproved Acres
1% Annual Chance Flood Hazard	1,382	17.49%	67	0.85%	1,315	16.64%
0.2% Annual Chance Flood Hazard	924	11.69%	394	4.99%	530	6.71%
Other Areas	7,801	98.73%	2,753	34.84%	5,048	63.89%

Source: Butte County 1/16/2011 DFIRM

Past Occurrences

A list of state and federal disaster declarations for Butte County from flooding is shown on Table D-35. These events also affected Oroville.

Table D-35 Butte County – State and Federal Disaster Declaration from Flood 1950-2018

Disaster Type	Federal Declarations		State Declarations	
	Count	Years	Count	Years
Flood (including heavy rain and storms)	17	1955, 1958, 1962, 1964, 1969, 1970, 1982, 1986, 1995 (twice), 1997, 1998, 2005, 2017 (three times), 2019	17	1950, 1955, 1958 (twice), 1962, 1963, 1969, 1970, 1982, 1986, 1990, 1995 (twice), 1997, 1998, 2008, 2017

Source: Cal OES, FEMA

The City also noted that the following events had affects and damages to the City:

- The City suffered minor damages during the 2017 Oroville dam disaster. No deaths or injuries occurred. No critical facilities were damaged.

Vulnerability to Flood

The General Plan Safety Element noted that the Oroville area has historically been subject to flooding from various rivers and creeks found within the Planning Area, most particularly from the Feather River and its tributaries. Local flooding was much more prevalent prior to the construction of the Oroville Dam and its

related flood control projects, which have helped to protect Oroville and many other areas of the County from serious flooding in recent years.

However, flooding remains an issue which regulatory agencies, the City and Butte County are seeking to address, in part through mapping of flood hazard areas and study of flooding hazards. Locally, Butte County, in consultation with the City of Oroville, has completed an assessment of flooding hazards as part of a Flood Mitigation Plan. This includes the Feather River and Lower Honeycut Creek Watersheds.

Impacts

Floods are among the costliest natural disasters in terms of human hardship and economic loss nationwide. Floods can cause substantial damage to structures, landscapes, and utilities as well as life safety issues. Floods can be extremely dangerous, and even six inches of moving water can knock over a person given a strong current. A car will float in less than two feet of moving water and can be swept downstream into deeper waters. This is one reason floods kill more people trapped in vehicles than anywhere else. During a flood, people can also suffer heart attacks or electrocution due to electrical equipment short outs. Floodwaters can transport large objects downstream which can damage or remove stationary structures, such as dam spillways. Ground saturation can result in instability, collapse, or other damage. Objects can also be buried or destroyed through sediment deposition. Floodwaters can also break utility lines and interrupt services. Standing water can cause damage to crops, roads, foundations, and electrical circuits. Direct impacts, such as drowning, can be limited with adequate warning and public education about what to do during floods. Where flooding occurs in populated areas, warning and evacuation will be of critical importance to reduce life and safety impacts from any type of flooding.

Normally, storm floodwaters are kept within defined limits by a variety of storm drainage and flood control measures in the City. Occasionally, extended heavy rains result in floodwaters that exceed normal high-water boundaries and cause damage. Flooding has occurred both within the 1% and 0.2% annual chance floodplains and in other localized areas. The vulnerability of the City to severe flooding is high as it can result in significant life safety, property damage, environmental, and economic impacts to the City.

Based on the vulnerability of Oroville to the flood hazard, the sections that follow describes significant assets at risk in the City of Oroville.

Values at Risk

GIS was used to determine the possible impacts of flooding within the City of Oroville. The methodology described in Section 4.3.7 of the Base Plan was followed in determining structures and values at risk to the 1% (100-year) and 0.2% (500-year) annual chance flood event. Analysis is presented in two parts:

- Summarized for the City by DFIRM Flood Zone
- Grouped by watershed and DFIRM Flood Zone

Values for Oroville Summarized by DFIRM Flood Zone

Table D-36 is a summary table for the City of Oroville. Parcel counts, values, estimated contents, and total values in the City are shown for the 1% and 0.2% annual chance flood zones, as well as for those properties

that fall outside of the mapped FEMA DFIRM flood zones. Table D-37 breaks down Table D-36 and shows the property use, improved parcel count, improved values, estimated contents, and total values that fall in each floodplain in the City.

Table D-36 City of Oroville – Count and Value of Parcels at Risk in Summary DFIRM Flood Zones

Flood Zone	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
1% Annual Chance Flood Hazard	94	51	\$6,584,673	\$15,062,584	\$358,940	\$12,087,296	\$32,245,879
0.2% Annual Chance Flood Hazard	604	452	\$43,419,507	\$91,016,487	\$2,052,234	\$78,213,094	\$214,554,239
Other Areas	6,447	4,998	\$270,347,458	\$778,096,177	\$58,930,189	\$561,204,619	\$1,536,200,509
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data

*With respect to improve parcels within the floodplain, the actual structures on the parcels may not be located within the actual floodplain, may be elevated and or otherwise outside of the identified flood zone

**This parcel count only includes those parcels in the 0.2% annual chance flood zone, exclusive of the 1% annual chance flood zone. The 0.2% annual chance flood, in actuality, also includes all parcels in the 1% annual chance flood zone.

Table D-37 City of Oroville – Count and Values of Parcels at Risk by Detailed Flood Zone and Property Use

Flood Zone / Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
1% Annual Chance Flood Hazard							
Agricultural	1	0	\$122,499	\$0	\$0	\$0	\$122,499
Commercial	33	22	\$4,445,872	\$9,112,008	\$358,940	\$9,112,008	\$21,176,711
Industrial	3	0	\$0	\$0	\$0	\$0	\$0
Residential	47	29	\$2,016,302	\$5,950,576	\$0	\$2,975,288	\$10,946,669
Unknown	10	0	\$0	\$0	\$0	\$0	\$0
1% Annual Chance Total	94	51	\$6,584,673	\$15,062,584	\$358,940	\$12,087,296	\$32,245,879
0.2% Annual Chance Flood Hazard							
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	156	96	\$24,189,383	\$52,163,843	\$2,002,854	\$52,163,843	\$131,559,143
Industrial	63	17	\$8,777,399	\$6,715,749	\$49,380	\$10,073,624	\$25,649,422
Residential	370	338	\$10,406,825	\$31,951,255	\$0	\$15,975,628	\$57,114,135
Unknown	15	1	\$45,900	\$185,640	\$0	\$0	\$231,540

Flood Zone / Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
0.2% Annual Chance Total	604	452	\$43,419,507	\$91,016,487	\$2,052,234	\$78,213,094	\$214,554,239
Other Areas							
Agricultural	8	0	\$1,168,577		\$7,947		\$1,176,524
Commercial	853	581	\$79,198,492	\$277,675,642	\$16,646,012	\$277,675,642	\$553,681,658
Industrial	161	55	\$17,279,898	\$33,383,022	\$42,269,230	\$50,074,533	\$166,919,063
Residential	5,288	4,361	\$172,681,873	\$466,908,887	\$7,000	\$233,454,444	\$814,277,150
Unknown	137	1	\$18,618	\$128,626			\$146,114
Other Areas Total	6,447	4,998	\$270,347,458	\$778,096,177	\$58,930,189	\$561,204,619	\$1,536,200,509
Grand Total							
Grand Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data

*With respect to improve parcels within the floodplain, the actual structures on the parcels may not be located within the actual floodplain, may be elevated and or otherwise outside of the identified flood zone

**This parcel count only includes those parcels in the 0.2% annual chance flood zone, exclusive of the 1% annual chance flood zone. The 0.2% annual chance flood, in actuality, also includes all parcels in the 1% annual chance flood zone.

Table D-38 summarizes Table D-37 above and shows City of Oroville loss estimates and improved values at risk by FEMA 1% and 0.2% annual chance flood zones.

Table D-38 City of Oroville – Flood Loss Estimates

Flood Zone	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value	Loss Estimate	Loss Ratio
1% Annual Chance	94	51	\$6,584,673	\$15,062,584	\$358,940	\$12,087,296	\$27,508,820	\$5,501,764	0.43%
0.2% Annual Chance	604	452	\$43,419,507	\$91,016,487	\$2,052,234	\$78,213,094	\$171,281,815	\$34,256,363	2.71%
Grand Total	698	503	\$50,004,180	\$106,079,071	\$2,411,174	\$90,300,390	\$198,790,635	\$39,758,127	3.14%

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data

*With respect to improve parcels within the floodplain, the actual structures on the parcels may not be located within the actual floodplain, may be elevated and or otherwise outside of the identified flood zone

**This parcel count only includes those parcels in the 0.2% annual chance flood zone, exclusive of the 1% annual chance flood zone. The 0.2% annual chance flood, in actuality, also includes all parcels in the 1% annual chance flood zone.

According to Table D-37 and Table D-38, the City of Oroville has 51 parcels and \$27.5 million in values in the 1% annual chance floodplain, and an additional 452 improved parcels and \$171.3 million of structure

and contents values in the 0.2% annual chance floodplain. These values can be refined a step further. Applying the 20 percent damage factor as previously described in Section 4.3.6 of the Base Plan, there is a 1% chance in any given year of a flood event causing \$5.5 million in damages, and a 0.2% chance in any given year of a flood event causing \$34.2 million in damage in the City of Oroville. The loss ratio of 0.43% and 2.71% indicates that flood losses for the City would be relatively minor and the City should be able to recover relatively quickly.

Values for Oroville by Watershed

Analysis was performed to determine DFIRM Flood Zones and which watershed they are located in. This analysis is presented in three tables:

- Table D-39 breaks the parcels and values of the City into the two watersheds that fall in the City.
- Table D-40 breaks down Table D-39 to show the parcels and values in each watershed in each FEMA DFIRM flood zone
- Table D-41 breaks down Table D-39 into property use categories. This table shows the watershed by both DFIRM flood zone and property use type.

Table D-39 City of Oroville – Count and Value of Parcels by Watershed

Watershed	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Feather River / Lower Honcut Creek Watershed	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-40 City of Oroville – Count and Value of Parcels by Watershed and Summary DFIRM Zones

Watershed / Flood Zone	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Feather River / Lower Honcut Creek Watershed							
1% Annual Chance Flood Hazard	94	51	\$6,584,673	\$15,062,584	\$358,940	\$12,087,296	\$32,245,879
0.2% Annual Chance Flood Hazard	604	452	\$43,419,507	\$91,016,487	\$2,052,234	\$78,213,094	\$214,554,239
Other Areas	6,447	4,998	\$270,347,458	\$778,096,177	\$58,930,189	\$561,204,619	\$1,536,200,509
Feather River / Lower Honcut Creek Watershed Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Watershed / Flood Zone	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-41 City of Oroville – Count and Value of Parcels by Watershed, DFIRM Flood Zone, and Property Use

Watershed / Flood Zone / Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
Feather River / Lower Honcut Creek Watershed							
1% Annual Chance Flood Hazard							
Agricultural	1	0	\$122,499	\$0	\$0	\$0	\$122,499
Commercial	33	22	\$4,445,872	\$9,112,008	\$358,940	\$9,112,008	\$21,176,711
Industrial	3	0	\$0	\$0	\$0	\$0	\$0
Residential	47	29	\$2,016,302	\$5,950,576	\$0	\$2,975,288	\$10,946,669
Unknown	10	0	\$0	\$0	\$0	\$0	\$0
1% Annual Chance Flood Hazard Total	94	51	\$6,584,673	\$15,062,584	\$358,940	\$12,087,296	\$32,245,879
0.2% Annual Chance Flood Hazard							
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	156	96	\$24,189,383	\$52,163,843	\$2,002,854	\$52,163,843	\$131,559,143
Industrial	63	17	\$8,777,399	\$6,715,749	\$49,380	\$10,073,624	\$25,649,422
Residential	370	338	\$10,406,825	\$31,951,255	\$0	\$15,975,628	\$57,114,135
Unknown	15	1	\$45,900	\$185,640	\$0	\$0	\$231,540
0.2% Annual Chance Flood Hazard Total	604	452	\$43,419,507	\$91,016,487	\$2,052,234	\$78,213,094	\$214,554,239
Other Areas							
Agricultural	8	0	\$1,168,577	\$0	\$7,947	\$0	\$1,176,524
Commercial	853	581	\$79,198,492	\$277,675,642	\$16,646,012	\$277,675,642	\$553,681,658
Industrial	161	55	\$17,279,898	\$33,383,022	\$42,269,230	\$50,074,533	\$166,919,063
Residential	5,288	4,361	\$172,681,873	\$466,908,887	\$7,000	\$233,454,444	\$814,277,150
Unknown	137	1	\$18,618	\$128,626			\$146,114
Other Areas Total	6,447	4,998	\$270,347,458	\$778,096,177	\$58,930,189	\$561,204,619	\$1,536,200,509
Feather River / Lower Honcut Creek Watershed Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Flooded Acres

Also of interest is the land area affected by the various flood zones. The following is an analysis of flooded acres in the City in comparison to total area within the City limits. The same methodology, as discussed in Section 4.3.8 of the Base Plan, was used for the City of Oroville as well as for the County as a whole. Table D-42 represents a detailed and summary analysis of total acres for each FEMA DFIRM flood zone in the City.

Table D-42 City of Oroville – Flooded Acres

Flood Zone	Total Acres	% of Total Acres	Improved Acres	% of Total Improved Acres	Unimproved Acres	% of Total Unimproved Acres
1% Annual Chance Flood Hazard	1,382	0.10%	67	0.01%	1,315	0.14%
0.2% Annual Chance Flood Hazard	924	0.06%	394	0.07%	530	0.06%
Other Areas	7,801	0.54%	2,753	0.51%	5,048	0.55%
City of Oroville Total	10,107	0.70%	3,213	0.60%	6,894	0.76%

Source: FEMA DFIRM 1/6/2011

Population at Risk

The DFIRM flood zones were overlayed on the parcel layer. Those residential parcel centroids that intersect the flood zones were counted and multiplied by the 2010 Census Bureau average household factors for Oroville – 2.60. According to this analysis, there is a total population of 75 and 874 residents of the City at risk to flooding in the 1% and 0.2% annual chance floodplains, respectively. This is shown in Table D-43.

Table D-43 City of Oroville – Count of Improved Residential Parcels and Population by Flood Zone

Jurisdiction	1 % Annual Chance Flooding		0.2% Annual Chance Flooding	
	Improved Residential Parcels	Population	Improved Residential Parcels	Population
Oroville	29	75	338	874

Source: Butte County 1/16/2011 DFIRM, Butte County 3/28/2019 Parcel/Assessor's Data, US Census Bureau

Critical Facilities at Risk

An analysis was performed on the critical facility inventory in Oroville in DFIRM flood zones. GIS was used to determine whether the facility locations intersects a DFIRM flood zone and, if so, what zone it intersects. Details of critical facilities in a DFIRM flood zones in the City of Oroville are shown in Figure

D-19 and detailed in Table D-44. Details of critical facility definition, type, name and address and jurisdiction by flood zone are listed in Appendix F.

Figure D-19 City of Oroville – Critical Facilities in DFIRM Flood Zones

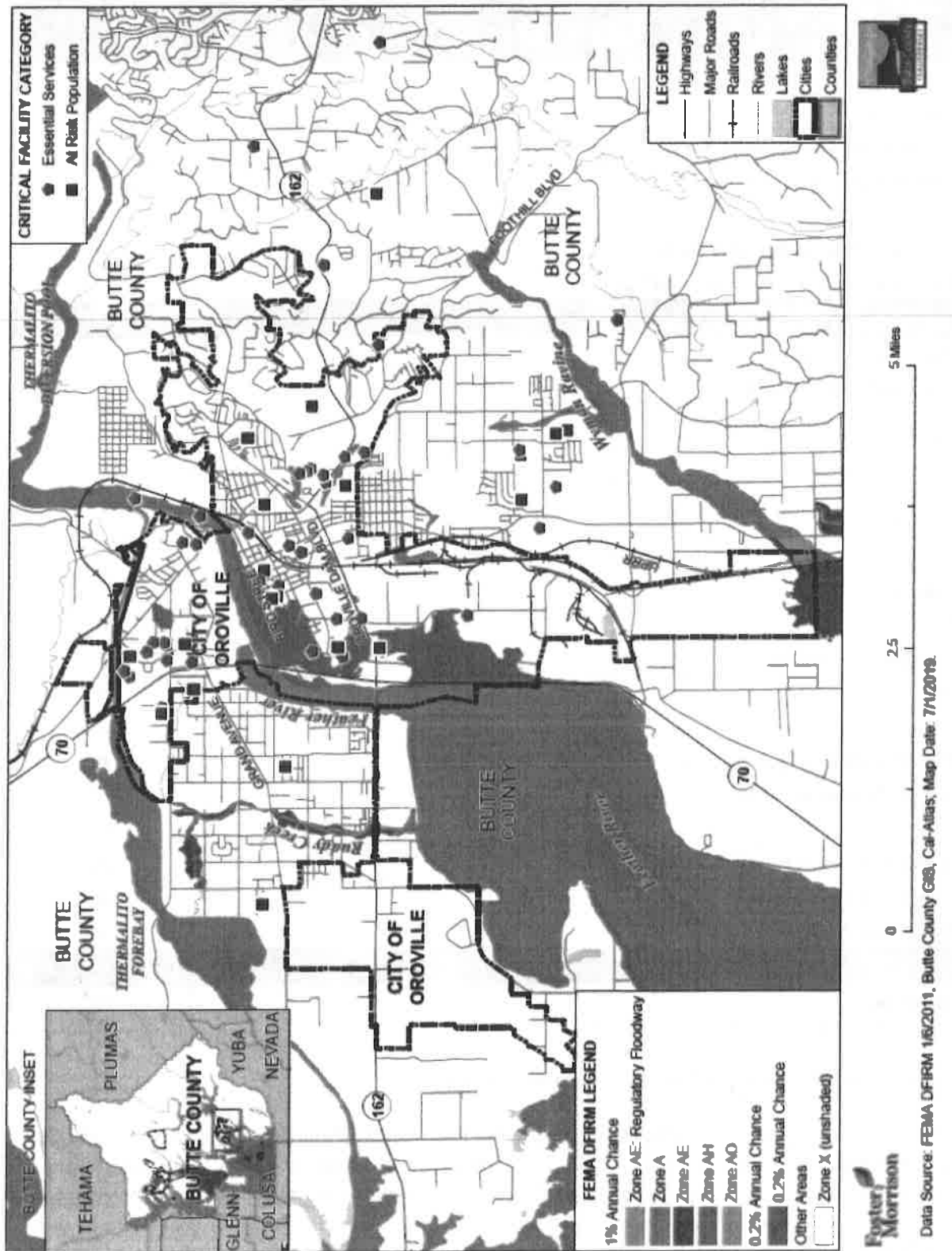


Table D-44 City of Oroville – Critical Facilities in DFIRM Flood Zones

Flood Zone/ Critical Facility Category / Critical Facility Type		Facility Count
0.2% Annual Chance Flood Hazard		
Essential Services Facilities		
Health Care		1
Essential Services Facilities Total		1
At Risk Population Facilities		
School		1
At Risk Population Facilities Total		1
0.2% Annual Chance Flood Hazard Total		2
Other Areas		
Zone X (unshaded)		
Essential Services Facilities		
Wastewater Treatment Plant		1
Fire		3
Health Care		18
Law Enforcement		3
Public Assembly Point / Evacuation Center		2
Radio Sites		3
Logistics Hub		6
Emergency Operation Center		1
DOC		1
Emergency Animal Shelter		1
Essential Services Facilities Total		39
At Risk Population Facilities		
School		19
At Risk Population Facilities Total		19
Zone X (unshaded) Total		58
Other Areas Total		58
Grand Total		60

Source: FEMA DFIRM 1/6/2011, Butte County GIS

Insurance Coverage, Claims Paid, and Repetitive Losses

The City of Oroville joined the National Flood Insurance Program (NFIP) on September 24, 1984. The City does not participate in CRS program. NFIP data indicates that as of July 19, 2018, there were 99 flood insurance policies in force in the City with \$29,287,400 of coverage. Of the 99 policies, 82 were residential (single-family homes) and 17 were non-residential. Of the 99 policies, 14 were in A zones, and 85 were in B, C, and X zones. The GIS parcel analysis detailed above identified 51 improved parcels in the 1%

annual chance flood zone with 14 policies covering them, which equates to 26.9% coverage of parcels in the 1% annual chance floodplain. There have been 21 historical claims for flood losses totaling \$494,395.16. 3 of these claims were substantial damage claims. NFIP data further indicates that there is 1 repetitive loss (RL) and 0 severe repetitive loss (SRL) buildings.

California Department of Water Resources Best Available Maps (BAM)

The FEMA regulatory maps provide just one perspective on flood risks in Butte County. Senate Bill 5 (SB 5), enacted in 2007, authorized the California DWR to develop the Best Available Maps (BAM) displaying 100- and 200-year floodplains for areas located within the Nevada-San Joaquin (SAC-SJ) Valley watershed. This effort was completed by DWR in 2008. DWR has expanded the BAM to cover all counties in the State and to include 500-year floodplains.

Different than the FEMA DFIRMs which have been prepared to support the NFIP and reflect only the 100-year event risk, the BAMs are provided for informational purposes and are intended to reflect current 100-, 200-(as applicable), and 500-year event risks using the best available data. The 100-year floodplain limits on the BAM are a composite of multiple 100-year floodplain mapping sources. It is intended to show all currently identified areas at risk for a 100-year flood event, including FEMA's 100-year floodplains. The BAM are comprised of different engineering studies performed by FEMA, Corps, and DWR for assessment of potential 100-, 200-, and 500-year floodplain areas. These studies are used for different planning and/or regulatory applications, and for each flood frequency may use varied analytical and quality control criteria depending on the study type requirements.

The value in the BAMs is that they provide a bigger picture view of potential flood risk to the City than that provided in the FEMA DFIRMs. This provides the community and residents with an additional tool for understanding potential flood hazards not currently mapped as a regulated floodplain. Improved awareness of flood risk can reduce exposure to flooding for new structures and promote increased protection for existing development. Informed land use planning will also assist in identifying levee maintenance needs and levels of protection. By including the FEMA 100-year floodplain, it also supports identification of the need and requirement for flood insurance. The BAM map for Oroville is shown in Figure D-20.

The map displays the Oriskany and Tonawanda National Forests in western New York. The Oriskany Mountains are shown in the north, with the Tonawanda National Forest to the west and the Oriskany National Forest to the east. Key locations labeled include Oriskany, Tonawanda, and Buffalo. Major roads like I-190 and I-19 are shown. A legend in the top right corner identifies symbols for FEMA Efficacy, Regional/Special Studies, DWR Awareness, USACE Comprehensive Study, and FEMA Efficacy. The map also shows the Buffalo River and the Tonawanda River.

Legend explanation: Blue - FEMA 1%, Orange – Local 1% (developed from local agencies), Red – DWR 1%r (Awareness floodplains identify the 1% annual chance flood hazard areas using approximate assessment procedures), Pink – USACE 1% (2002 Sac and San Joaquin River Basins Comp Study), Yellow – USACE 0.5% (2002 Sac and San Joaquin River Basins Comp Study), Tan – FEMA 0.2%, Grey – Local 0.2% (developed from local agencies), Purple – USACE 0.2%(2002 Sac and San Joaquin River Basins Comp Study).

No development is occurring in the floodway. However, development may occur in specific flood zones. This development must meet specific criteria based on the City's flood ordinance and as outlined on the DFIRM for that particular area. These maps are available on the Butte County Website. Map 06007C0795E located on the Butte County website contains additional information regarding the floodplain for the downtown Oroville area.

Butte County's 3/21/2019 Assessor Data and the County's GIS parcel data were used as the basis for the inventory of assessed values for both improved and unimproved parcels within the City. Using GIS, the 260 parcels associated with future development projects for which the analysis was to be performed was identified. Future development in DFIRM flood zones are shown on Figure D-21 and detailed in Table D-45.

Figure D-21 City of Oroville – Future Development in DFIRM Flood Zones

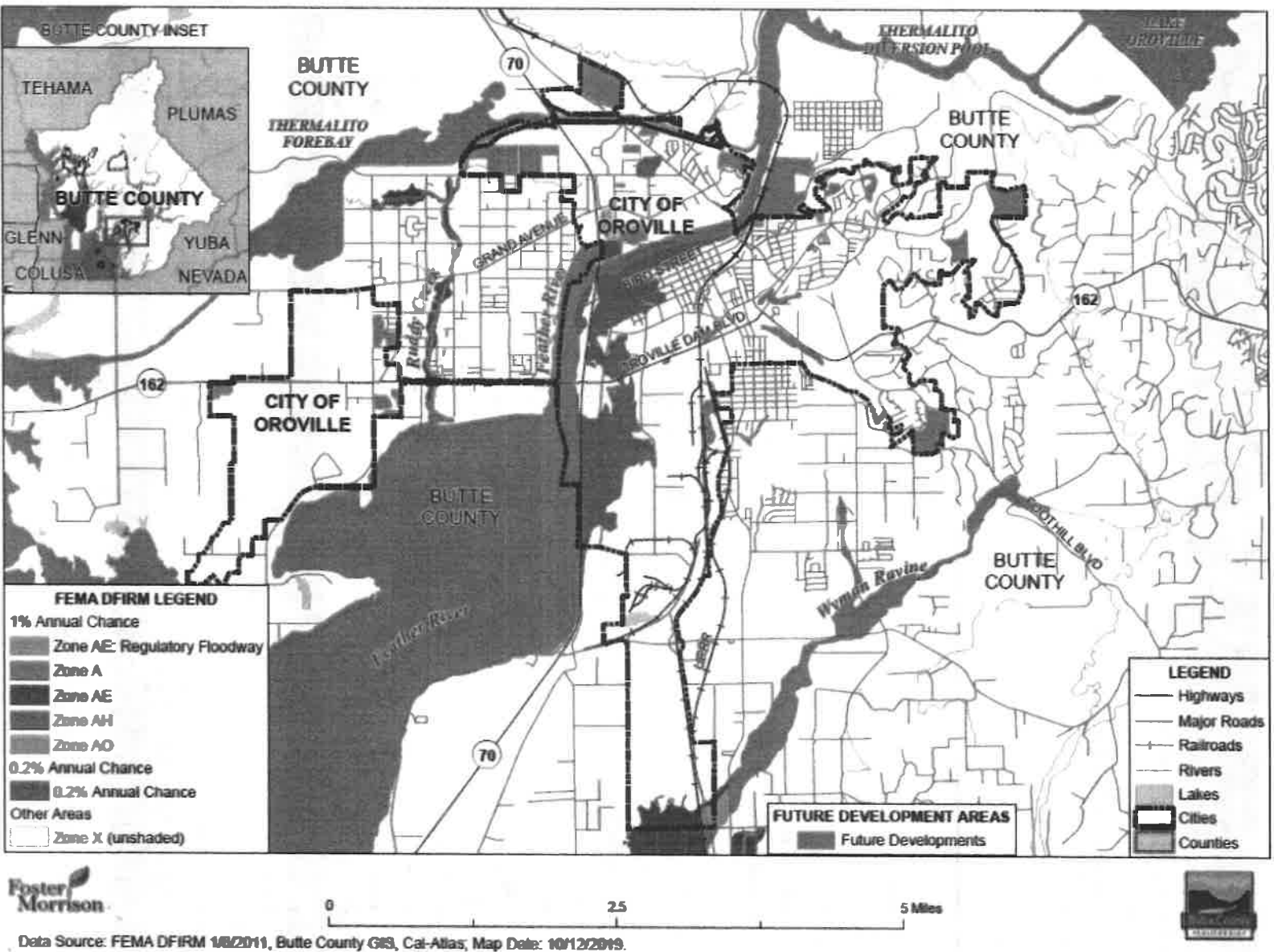


Table D-45 City of Oroville – Future Development Parcels and Acreages in DFIRM Flood Zones

Flood Zone / Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
City of Oroville			
1% Annual Chance Flood Hazard			
Riverview	2		17.7
1% Annual Chance Flood Hazard Total	2		17.7
Other Areas			
Acacia Estates	2	0	6.7
Buttewoods 2	3	0	56.1
Calle Vista Estates Unit II	48	44	24.4
Canal View Estates	3	0	8.4
Deer Creek Estates 2	3	0	24.3
Ford Drive	2	0	22.4
Forebay Estates	1	0	40.2
Greenview Estates	1	1	1.9
Heritage Oak Estates	3	1	46.5
Highlands Estates	1	0	13.3
Linkside Place Phase I	66	6	11.5
Martin Ranch	1	0	73.1
Mission Olive Ranch	20	2	6.8
Nelson 56	1	0	56.5
Oak Park	1	0	5.1
Rivers Edge	1	0	10.3
Riverview	2	0	21.1
Rosewood Estates	1	0	5.0
Vista Del Oro	95	22	15.2
Other Areas Total	255	76	448.7
City of Oroville Total	257	76	466.4
Unincorporated Butte County			
Other Areas			
Oak Park	3	0	94.3
Other Areas Total	3	0	94.3
Unincorporated Butte County Total	3	0	94.3
Grand Total			
Grand Total	260	76	560.6

Source: FEMA DFIRM 1/6/2011/ City of Oroville GIS, Butte County 3/28/2019 Parcel/Assessor's Data

Flood: Localized Stormwater Flooding

Likelihood of Future Occurrence—Occasional
Vulnerability—Medium

Hazard Profile and Problem Description

While flooding happens in the City from time to time in the FEMA floodplains, areas outside of the floodplain can experience intermittent flooding as well. Localized flooding and other issues caused by severe weather events, primarily heavy rains and severe storms, can often pose a risk to the community. Primary concerns include impacts to infrastructure that provides a means of ingress and egress throughout the community.

Location and Extent

As described above, the City is subject to localized flooding throughout the City. Flood extents are usually measured in areas affected, velocity of flooding, and depths of flooding. Expected flood depths in the City vary by location. Flood durations in the City tend to be short to medium term, or until either the storm drainage system can catch up or flood waters move downstream. Localized flooding in the City tends to have a shorter speed of onset, especially when antecedent rainfall has soaked the ground and reduced its capacity to absorb additional moisture.

Past Occurrences

The City noted the following past occurrences of localized flooding:

- The Oroville Dam Spillway incident in February of 2017 cause a mass evacuation and flooding in areas of the City of Oroville

The City also noted that various areas within the City are prone to localized flooding during heavy rain and storm events as described further below.

Vulnerability to Localized Flooding

There are two primary sources of stormwater runoff that are of concern to the City: regional runoff, which originates outside the City, and runoff from properties located inside the City. Regional runoff has historically posed the greatest threat of flooding to properties in the City; however, flood control facilities such as Oroville Dam have minimized this threat considerably. As a result, the more immediate concern for the City is the collection, conveyance, and discharge of stormwater from properties within the City.

The City tracks localized flooding areas. Affected localized flood areas identified by the City of Oroville are summarized in Table D-46.

Table D-46 City of Oroville – Road List of Localized Flooding Problem Areas

Road Name	Flooding	Pavement Deterioration	Washout	High Water	Landslide/ Mudslide	Debris	Downed Trees
Alice Ave.	X						
Bald Rock Rd.							X
Black Bart Rd.					X		
Cherokee Rd.					X		X
Darby Rd.				X			
Foothill Blvd.							X
Forbestown Rd.					X	X	
Hurelton Rd.	X						
Long Bar Rd.							X
Louis Ave.	X						
Lumpkin Rd.					X		
Oregon Gulch Rd.							X
Railroad Ave.	X						
Stringtown Rd.	X						X
Zink Rd.							X

Source: City of Oroville

Impacts

Localized flooding and other issues caused by severe weather events, primarily heavy rains and thunderstorms, can often pose a risk to the community. Primary concerns include impacts to infrastructure that provides a means of ingress and egress throughout the community. Ground saturation can result in instability, collapse, or other damage. Objects can also be buried or destroyed through sediment deposition. Floodwaters can also break utility lines and interrupt services. Standing water can cause damage to crops, roads, foundations, and electrical circuits.

Future Development

Future development in the City will add more impervious surfaces causing more runoff. The City has addressed localized flooding in the past and will continue those efforts in the future through stormwater master planning efforts as well as through requirements for new development. The City of Oroville is in the planning stages of storm drain improvements.

Levee Failure

Likelihood of Future Occurrence–Likely
Vulnerability–Medium

Hazard Profile and Problem Description

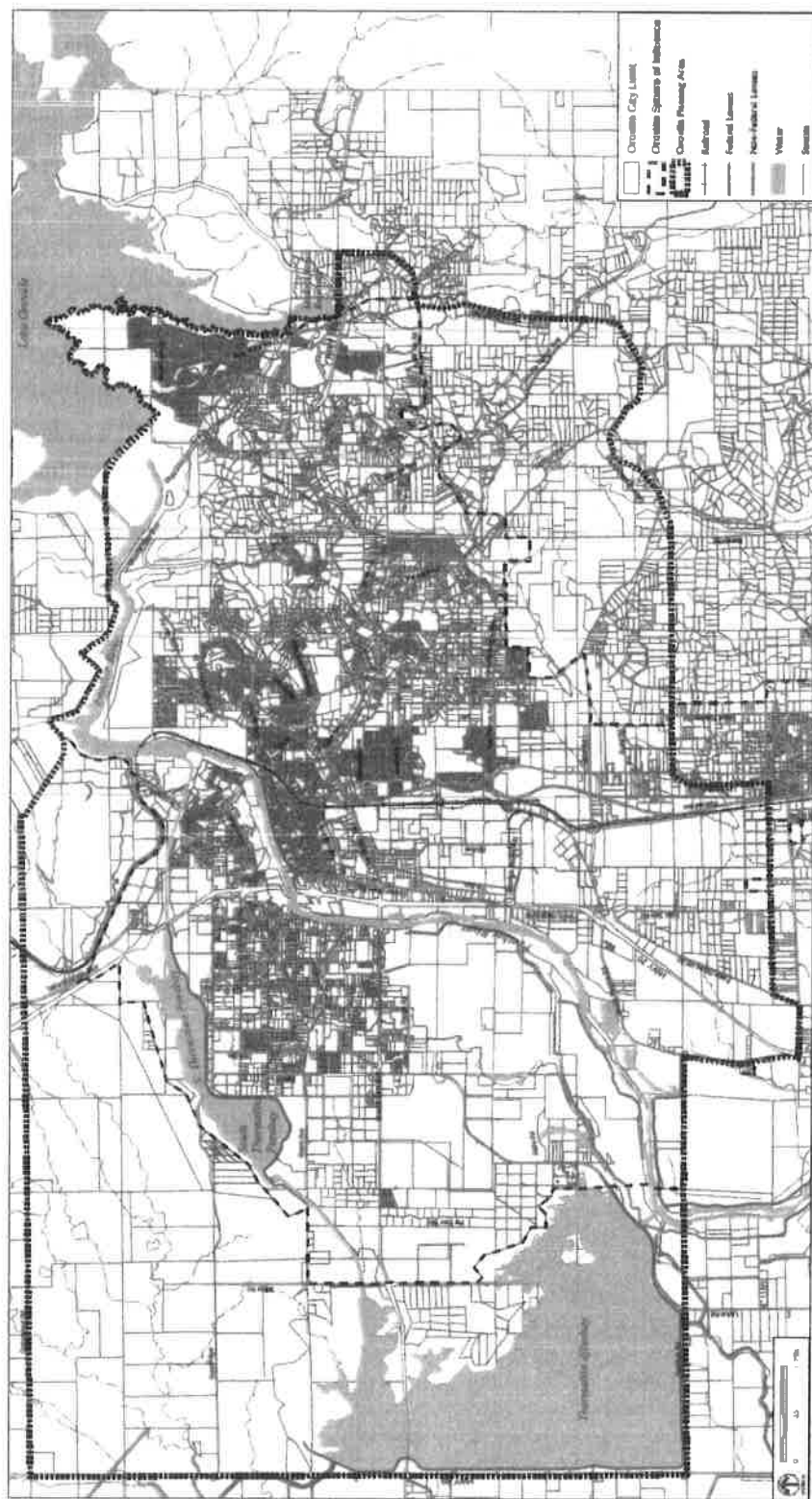
A levee is a raised area that runs along the banks of a stream or canal. Levees reinforce the banks and help prevent flooding by containing higher flow events to the main stream channel. By confining the flow to a narrower stream channel, levees can also increase the speed of the water. Levees can be natural or man-made.

Location and Extent

There is not a scientific scale or measurement system in place for levee failure. Figure D-22 shows the location of levee centerlines for federal and non-federal levees in the Oroville Planning Area. The majority of levees in the Planning Area are non-federal levees, and they are concentrated along the Feather River, the western and southern fringes of the Thermalito Afterbay, and the southern fringes of the Thermalito Forebay. Federal levees are located in the southwest portion of the Planning Area, between the Feather River and the Thermalito Afterbay. The City of Oroville 2030 General Plan Safety Element noted that levee inundation area maps are not available for the Oroville Planning Area. However, the California Department of Water Resources mapped Levee Flood Protection Zones for State Water Project levees in the Sacramento River Basin in August 2011, and only a small portion of the Planning Area is included in the Levee Flood Protection Zone: approximately 150 acres adjacent to the southeast corner of the Thermalito Afterbay, which is currently used for open space and designated State Water Project in this General Plan.

Expected flood depths in the City are not known. The speed of onset is slow as the river rises, but if a levee fails the warning times are short for those in the inundation area. The duration of levee failure risk times can be hours to weeks, depending on the river flows that the levee holds back. The HMPC noted that since dredging the river bottom has been limited, the bottom of the river has become higher, thus the water levels reach higher on the banks of the levees. When northern California reservoirs are nearing maximum capacity, they release water through the river systems, causing additional burdens on County levees. The potential for levee breaches and erosion damage has increased.

Figure D-22 City of Oroville – Levee Locations



Source: City of Oroville 2030 General Plan

Past Occurrences

The City Planning Team noted no past occurrences of levee failures.

Vulnerability to Levee Failure

Levee failure flooding can occur as the result of partial or complete collapse of an impoundment, and often results from prolonged rainfall and flooding. The primary danger associated with dam or levee failure is the high velocity flooding of those properties downstream of the breach. A levee failure can range from a small, uncontrolled release to a catastrophic failure. Vulnerability to levee failures is generally confined to the areas subject to inundation downstream of the facility. Secondary losses would include loss of the multi-use functions of the facility and associated revenues that accompany those functions.

Levee failure flooding would vary in the City depending on which structure fails and the nature and extent of the failure and associated flooding. This flooding presents a threat to life and property, including buildings, their contents, and their use. Large flood events can affect critical facilities and lifeline utilities (e.g., water, sewerage, and power), transportation, jobs, tourism, the environment, agricultural industry, and the local and regional economies.

Impacts

Should the levees fail, all of the area protected by the levees would be at risk to flooding causing property damage and life safety concerns. Business losses would be large should facilities be flooded. Additional issues include dewatering of the levee protected areas, as well as the rebuilding of the levees. Road closures would occur, and would impede both evacuation routes and ability of first responders to quickly respond to calls for aid.

Future Development

Future development built in the areas protected by levees is subject to being built to the standards in the City of Oroville Floodplain Ordinance. Future development in levee protected areas may be affected by this hazard, thus there will always be some level of concern.

Severe Weather: Extreme Heat

Likelihood of Future Occurrence—Highly Likely

Vulnerability—Medium

Hazard Profile and Problem Description

According to FEMA, extreme heat is defined as temperatures that hover 10 degrees or more above the average high temperature for the region and last for several weeks. Heat kills by taxing the human body beyond its abilities. In extreme heat and high humidity, evaporation is slowed and the body must work extra hard to maintain a normal temperature.” Most heat disorders occur because the victim has been overexposed to heat or has over-exercised for his or her age and physical condition. Older adults, young children, and those who are sick or overweight are more likely to succumb to extreme heat. Conditions

that can induce heat-related illnesses include stagnant atmospheric conditions and poor air quality. Consequently, people living in urban areas may be at greater risk from the effects of a prolonged heat wave than those living in rural areas. Also, asphalt and concrete store heat longer and gradually release heat at night, which can produce higher nighttime temperatures known as the urban heat island effect. Extreme heat, coupled with high winds, can trigger PG&E to perform a Public Safety Power Shutdown (PSPS), which cuts off electricity to those in the City and the County.

Location and Extent

Heat is a regional phenomenon and affects the whole of the City. Heat emergencies are often slower to develop, taking several days of continuous, oppressive heat before a significant or quantifiable impact is seen. Heat waves do not strike victims immediately, but rather their cumulative effects slowly take the lives of vulnerable populations. Heat waves do not generally cause damage or elicit the immediate response of floods, fires, earthquakes, or other more “typical” disaster scenarios.

The NWS has in place a system to initiate alert procedures (advisories or warnings) when extreme heat is expected to have a significant impact on public safety. The expected severity of the heat determines whether advisories or warnings are issued. The NWS HeatRisk forecast provides a quick view of heat risk potential over the upcoming seven days. The heat risk is portrayed in a numeric (0-4) and color (green/yellow/orange/red/magenta) scale which is similar in approach to the Air Quality Index (AQI) or the UV Index. This can be seen in Section 4.2.2 of the Base Plan.

Past Occurrences

The City Planning Team note that since extreme heat is a regional phenomenon, events that affected the County also affected the City. Those past occurrences were shown in the Base Plan in Section 4.2.2.

Vulnerability to Extreme Heat

The City experiences temperatures in excess of 100 degrees during the summer and fall months. The temperature moves to 105-115°F in rather extreme situations. Health impacts are the primary concern with this hazard, though economic impacts are also an issue.

Impacts

The elderly and individuals below the poverty level are the most vulnerable to extreme temperatures. Nursing homes and elder care facilities are especially vulnerable to extreme heat events if power outages occur and air conditioning is not available. In addition, individuals below the poverty level may be at increased risk to extreme heat if use of air conditioning is not affordable. This is especially true of homeless people and the transient population.

Reliance on air conditioning causes a strain on the electrical energy in the City. Occasionally peak demands outweigh supply and a condition known as brown-out occurs. This is an extremely dangerous situation for electrical equipment as it operates without the needed electricity causing damage to the systems. Days of extreme heat have been known to result in medical emergencies, civil unrest, and unpredictable human behavior. Periods of extended heat and dryness (droughts) can have major economic, agricultural, and

water resources impacts. Extreme heat can also dry out vegetations, making it more vulnerable to wildfire ignitions. PSPS can also happen, which cuts off electricity to the City during periods of high heat.

Future Development

Vulnerability to extreme heat will increase as the average age of the population in each City shifts. The residents of nursing homes and elder care facilities are especially vulnerable to extreme temperature events. It is encouraged that such facilities have emergency plans or backup power to address power failure during times of extreme heat and in the event of a Public Safety Power Shutoff. Low income residents and homeless populations are also vulnerable. Cooling centers for these populations should be utilized when necessary. However, many of the residents of the City are accustomed to living with extreme heat and take precautions to guard against the threat of extreme heat.

Severe Weather: Freeze and Winter Storm

Likelihood of Future Occurrence—Occasional

Vulnerability—Medium

Hazard Profile and Problem Description

According to the National Weather Service (NWS) and the Western Regional Climate Center (WRCC), extreme cold often accompanies a winter storm or is left in its wake. Prolonged exposure to cold can cause frostbite or hypothermia and can be life-threatening. Winter snowstorms can include heavy snow, ice, and blizzard conditions.

Location and Extent

Freeze and winter storms are regional issues, meaning the entire City is at risk to freeze and winter storm. While there is no scale (i.e. Richter, Enhanced Fujita) to measure the effects of freeze, temperature data from the County from the WRCC indicates that there are 21.8 days that fall below 32°F in western Butte County, with no days falling below 0°F. Freeze has a slow onset and can be generally be predicted in advance for the County. Freeze events can last for hours (in a cold overnight), or for days to weeks at a time. Snowfall is measured in snow depths. It is rare for snow to fall in the City, and even rarer that snow accumulates in the City. Snowfall has an onset that is similar to freeze in the City.

Past Occurrences

The City Planning Team note that since freeze and winter storm is a regional phenomenon, events that affected the lower elevations of the County also affected the City. Those past occurrences were shown in the Base Plan in Section 4.2.3.

Vulnerability to Severe Weather: Freeze and Winter Storms

The City experiences temperatures below 32 degrees during the winter months. The temperature moves to the teens in rather extreme situations.

Impacts

Freeze normally does not impact structures, but is a life safety issue. Secondary impacts of extreme cold can affect the supporting mechanisms or systems of a community's infrastructure. For example, when extreme cold is coupled with high winds or ice storms, power lines may be downed, resulting in an interruption in the transmission of that power shutting down electric furnaces, which may lead to frozen pipes in homes and businesses.

Occasionally, winter storms with snow and ice can affect the City. Transportation networks, communications, and utilities infrastructure are the most vulnerable physical assets in the City. The ability for the City to continue to operate during periods of winter storm and freeze is paramount. The elderly population in the planning area is most vulnerable to temperature extremes. The residents of nursing homes and elder care facilities are especially vulnerable to extreme temperature events. It is encouraged that such facilities have emergency plans or backup power to address power failure during times of extreme cold. Transient and homeless populations are also at risk to freeze.

Future Development

Future development should be built to code. Pipes at risk of freezing should be mitigated by either burying or insulating them from freeze as new facilities are improved or added. Vulnerability to extreme cold will increase as the average age of the population in the County shifts. The elderly are more at risk to the effects of freeze. However, many of the residents of the City are accustomed to living with freeze and take precautions to guard against the threat of freeze.

Severe Weather: Heavy Rain and Storms (Hail, Lightning, Wind)

Likelihood of Future Occurrence—Likely

Vulnerability—Medium

Hazard Profile and Problem Description

Storms in the City of Oroville occur annually and are generally characterized by heavy rain often accompanied by strong winds and sometimes lightning and hail. Approximately 10 percent of the thunderstorms that occur each year in the United States are classified as severe. A thunderstorm is classified as severe when it contains one or more of the following phenomena: hail that is three-quarters of an inch or greater, winds in excess of 50 knots (57.5 mph), or a tornado. Heavy precipitation in the City falls mainly in the fall, winter, and spring months.

Location and Extent

Heavy rain events occur on a regional basis. Rains and storms can occur in any location of the City. All portions of the City are at risk to heavy rains. Most of the severe rains occur during the winter months. There is no scale by which heavy rains and severe storms are measured. Magnitude of storms is measured often in rainfall and damages. The speed of onset of heavy rains can be short, but accurate weather prediction mechanisms often let the public know of upcoming events. Duration of severe storms in California, Butte County, and the City is often short, ranging from minutes to hours. In some cases, rains

can continue for days at a time. Information on precipitation extremes can be found in Section 4.2.4 of the Base Plan.

Past Occurrences

According to historical hazard data, severe weather is an annual occurrence in the City of Oroville. Past heavy rains have flooded the main roadway in the City of Oroville. These heavy rains have caused the storm drains to overflow onto the streets and nearby businesses. These flooding of city streets have an impact on public safety entities within the City.

Vulnerability to Heavy Rain and Storms

According to historical hazard data, severe weather is an annual occurrence in the City. Damage and disaster declarations related to severe weather have occurred and will continue to occur in the future. Heavy rain and severe storms are the most frequent type of severe weather occurrences in the City. Wind and lightning often accompany these storms and have caused damage in the past. Hail is rare in the City.

Impacts

Impacts to property, critical facilities (such as utilities), and life safety can be expected during heavy storms. Actual damage associated with the primary effects of severe weather have been limited. It is the secondary hazards caused by weather, such as floods, fire, and agricultural losses that have had the greatest impact on the City. The risk and vulnerability associated with these secondary hazards are discussed in the flood and localized flood sections of this Annex.

Future Development

New critical facilities such as communications towers and others should be built to code to withstand hail damage, lightning, and thunderstorm winds. Future losses to new development should be minimal.

Wildfire

Likelihood of Future Occurrence—Highly Likely
Vulnerability—High

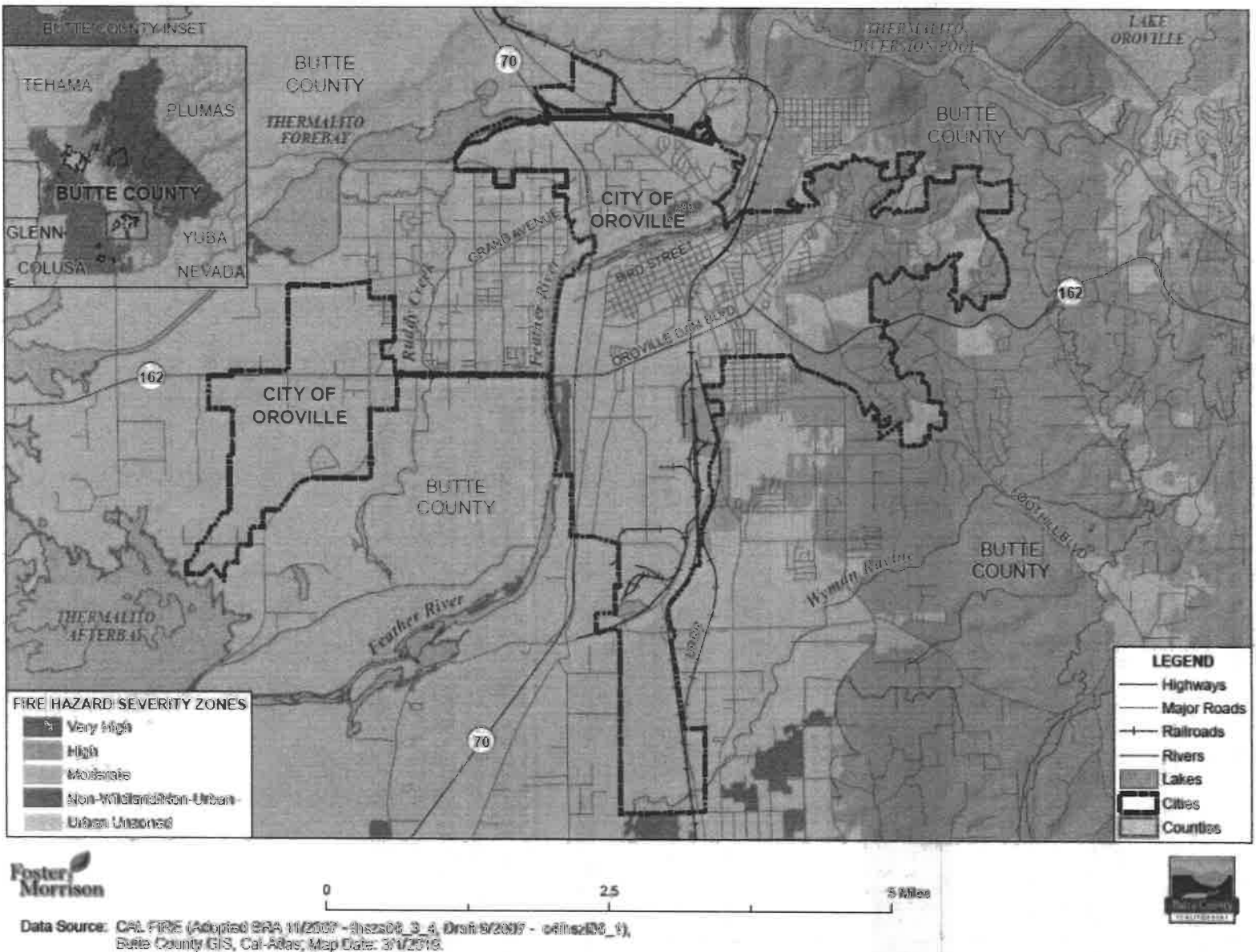
Hazard Profile and Problem Description

Wildland fire is an ongoing concern for the City of Oroville. Generally, the fire season extends from early spring through late fall of each year during the hotter, dryer months. Fire conditions arise from a combination of high temperatures, low moisture content in the air and fuel, accumulation of vegetation, and high winds. Throughout California, communities are increasingly concerned about wildfire safety as increased development in the foothills and mountain areas and subsequent fire suppression practices have affected the natural cycle of the ecosystem.

Location and Extent

Wildfire can affect all areas of the City. CAL FIRE has estimated that the risk varies across the City and has created maps showing risk variance. Following the methodology described in Section 4.3.16, a wildfire maps for the City of Oroville were created. Figure D-23 shows the CAL FIRE FHSZ in the City. As shown on the maps, wildfire threat within the City is widely varied from low to high.

Figure D-23 City of Oroville – Fire Hazard Severity Zones



The City of Oroville 2030 General Plan Safety Element also noted that urban fire risk is greatest in older structures and neighborhoods built before modern building codes for fire safety and building systems were in place. Other factors affecting urban fire risk and relative likelihood of loss of life or property include building age, height, and use; storage of flammable material; building construction materials; availability of sprinkler systems; and proximity to a fire station and hydrants.

Wildfires tend to be measured in structure damages, injuries, and loss of life as well as on acres burned. Fires can have a quick speed of onset, especially during periods of drought. Fires can burn for a short period of time, or may have durations lasting for a week or more. Geographical I FHSZ extent from CAL FIRE is shown in Table D-47.

Table D-47 City of Oroville – Geographical FHSZ Extents

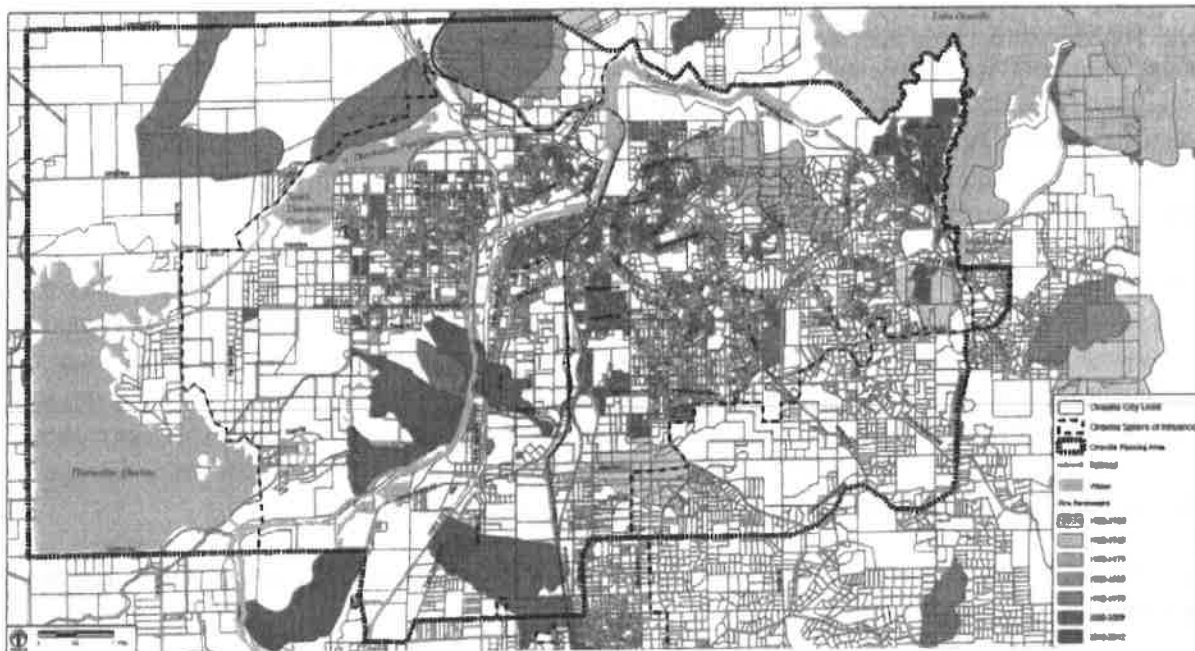
Fire Hazard Severity Zones	Total Acres	% of Total Acres	Improved Acres	% of Total Improved Acres	Unimproved Acres	% of Total Unimproved Acres
Very High	0	0.00%	0	0.00%	0	0.00%
High	1,565	19.81%	972	12.30%	0	0.00%
Moderate	4,018	50.85%	807	10.21%	0	0.00%
Non- Wildland/Non- Urban	99	1.25%	1	0.01%	191	2.42%
Urban Unzoned	2,117	26.79%	1,102	13.95%	82	1.04%

Source: CAL FIRE

Past Occurrences

Historical wildfire perimeters from the General Plan Safety Element dating back to 1950 in the Oroville Planning Area are mapped in Figure D-24. The map clearly illustrates that the majority of wildfires in the Oroville Planning Area since 1990 occurred in the areas west of the railroad tracks, including large areas north of the Thermalito Forebay during the 1990-1999 period, and near the Feather River south of Thermalito and west of Palermo since 2000. Wildfires during the 1950s and 1960s primarily occurred in areas east of the railroad tracks, including in the foothills north and east of the city and in the area north of Palermo.

Figure D-24 City of Oroville – Historic Fire Perimeters



Source: City of Oroville 2030 General Plan Safety Element

The HMPC noted that the 2018 Campfire threatened the City of Oroville. The potential of wildfires from these rural areas of Butte County caused evacuation preparedness/warnings for the City of Oroville. During the Campfire, the maps of the fire progress showed the potential wildfires entering the City from the south, Kelly Ridge area toward downtown Oroville.

Vulnerability to Wildfire

A number of factors affect the behavior of wildland and interface fires, including terrain, weather, wind, fuels and seasons. It is well known that fire travels faster uphill than down and is more difficult to fight on steep slopes than on level ground. When weather is hot and the humidity is low, wildland fires can explode with intensity of rapid combustion. Even in the absence of strong winds, a fast-moving fire can generate its own updrafts, particularly in canyons, causing burning brands to be carried high in the air and drop a long distance ahead. This results in spot fires over a wide radius as the wind changes its direction.

Oroville is not immune to numerous types of grass and brush fires and any one of them may accelerate into an urban interface wildfire. Such a situation could lead to evacuation of large portions of the population and the potential for significant loss of personal property, structures, and rangeland. The natural fuels available in or near the City vary greatly in the rate and intensity of burning. Fires in heavy brush and stands of trees burn with great intensity but more slowly than in dry grass and leaves. Dense fuels will propagate fire better than sparse fuels. The local fire season generally extends from June through early October, but is now becoming more of a year-round concern.

Impacts

Wildfires can cause short-term and long-term disruption to the County and City of Oroville, as evidenced by the Camp Fire in Paradise and the resultant increase in the population in Oroville due to fire victims relocating. Fires can have devastating effects on watersheds through loss of vegetation and soil erosion, which may impact the County by changing runoff patterns, increasing sedimentation, reducing natural and reservoir water storage capacity, and degrading water quality. Fires may result in casualties and can destroy buildings and infrastructure.

Although the physical damages and casualties arising from wildland-urban interface fires may be severe, it is important to recognize that they also cause significant economic impacts by resulting in a loss of function of buildings and infrastructure. In some cases, the economic impact of this loss of services may be comparable to the economic impact of physical damages or, in some cases, even greater. Economic impacts of loss of transportation and utility services may include traffic delays/detours from road and bridge closures and loss of electric power, potable water, and wastewater services. Fires can also cause major damage to power plants and power lines needed to distribute electricity to operate facilities.

Based on the vulnerability of the City of Oroville to the wildfire hazard, the sections that follow describes significant assets at risk in the City.

Values at Risk

GIS was used to determine the possible impacts of flooding within the City of Oroville. The methodology described in Section 4.3.19 of the Base Plan was followed in determining structures and values at risk in fire hazard severity zones. Summary analysis results for Oroville are shown in Table D-48, which summarizes total parcel counts, improved parcel counts and their structure values by fire hazard severity zone.

Table D-48 City of Oroville – Count and Value of Parcels by Fire Hazard Severity Zone

Fire Hazard Severity Zone	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
High	1,988	1,663	\$81,040,528	\$255,349,705	\$14,264,880	\$174,383,234	\$455,316,711
Moderate	1,761	1,063	\$84,356,508	\$184,006,372	\$15,771,435	\$123,656,024	\$388,367,444
Non-Wildland/Non-Urban	6	0	\$347,035	\$0	\$5,473	\$0	\$352,508
Urban Unzoned	3,390	2,775	\$154,607,567	\$444,819,171	\$31,299,575	\$353,465,751	\$938,963,964
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: CAL FIRE, Butte County 3/28/2019 Parcel/Assessor's Data

Table D-49 breaks out the Table D-48 by adding the property use details by fire hazard severity zone for the City. As shown in both of these tables, the City has 1,663 properties in the very high or high fire hazard severity zone.

Table D-49 City of Oroville – Count and Value of Parcels by Fire Hazard Severity Zone and Property Use

Fire Hazard Severity Zone / Property Use	Total Parcel Count	Improved Parcel Count	Total Land Value	Improved Structure Value	Other Value	Estimated Contents Value	Total Value
High							
Agricultural	0	0	\$0	\$0	\$0	\$0	\$0
Commercial	86	57	\$13,849,975	\$91,919,077	\$12,817,540	\$91,919,077	\$146,973,780
Industrial	4	2	\$339,502	\$748,843	\$1,445,840	\$1,123,265	\$4,194,740
Residential	1,871	1,604	\$66,849,921	\$162,681,785	\$1,500	\$81,340,893	\$304,148,192
Unknown	27	0	\$1,130	\$0	\$0	\$0	\$0
High Total	1,988	1,663	\$81,040,528	\$255,349,705	\$14,264,880	\$174,383,234	\$455,316,711
Moderate							
Agricultural	6	0	\$932,692	\$0	\$0	\$0	\$932,692
Commercial	127	67	\$16,216,764	\$35,710,676	\$373,745	\$35,710,676	\$85,959,387
Industrial	121	17	\$13,529,301	\$13,797,500	\$15,397,690	\$20,696,250	\$72,092,321
Residential	1,458	979	\$53,677,751	\$134,498,196	\$0	\$67,249,098	\$229,383,044
Unknown	49	0	\$0	\$0	\$0	\$0	\$0
Moderate Total	1,761	1,063	\$84,356,508	\$184,006,372	\$15,771,435	\$123,656,024	\$388,367,444
Non-Wildland/Non-Urban							
Agricultural	2	0	\$347,035	\$0	\$5,473	\$0	\$352,508
Commercial	0	0	\$0	\$0	\$0	\$0	\$0
Industrial	2	0	\$0	\$0	\$0	\$0	\$0
Residential	2	0	\$0	\$0	\$0	\$0	\$0
Unknown	0	0	\$0	\$0	\$0	\$0	\$0
Non-Wildland/Non-Urban Total	6	0	\$347,035	\$0	\$5,473	\$0	\$352,508
Urban Unzoned							
Agricultural	1	0	\$11,349	\$0	\$2,474	\$0	\$13,823
Commercial	829	575	\$77,767,008	\$211,321,740	\$5,816,521	\$211,321,740	\$473,484,345
Industrial	100	53	\$12,188,494	\$25,552,428	\$25,475,080	\$38,328,642	\$116,281,424
Residential	2,374	2,145	\$64,577,328	\$207,630,737	\$5,500	\$103,815,369	\$348,806,718
Unknown	86	2	\$63,388	\$314,266	\$0	\$0	\$377,654
Urban Unzoned Total	3,390	2,775	\$154,607,567	\$444,819,171	\$31,299,575	\$353,465,751	\$938,963,964
City of Oroville Total							
City of Oroville Total	7,145	5,501	\$320,351,638	\$884,175,248	\$61,341,363	\$651,505,009	\$1,783,000,627

Source: CAL FIRE, Butte County 3/28/2019 Parcel/Assessor's Data

Population at Risk

The Fire Hazard Severity Zone dataset was overlaid on the parcel layer. Those residential parcel centroids that intersect the severity zones were counted and multiplied by the 2010 Census Bureau average household factors for the City of Oroville – 2.60. According to this analysis, there is a total population of 6,625 residents of Oroville at risk to moderate or higher FHSZs. This is shown in Table D-50.

Table D-50 City of Oroville – Count of Improved Residential Parcels and Population by Fire Hazard Severity Zone

Jurisdiction	Moderate		High		Very High	
	Improved Residential Parcels	Population	Improved Residential Parcels	Population	Improved Residential Parcels	Population
Oroville	979	2,455	1,604	4,170	0	0

Source: CAL FIRE, Butte County 3/28/2019 Parcel/Assessor's Data, US Census Bureau

Critical Facilities at Risk

An analysis was performed on the critical facility inventory in Oroville in identified FHSZs facilities in a FHSZ in the City of Oroville are shown in Figure D-25 and detailed in Table D-51. Details of critical facility definition, type, name and address and jurisdiction by FHSZ are listed in Appendix F.

Figure D-25 City of Oroville -- Critical Facilities in Fire Hazard Severity Zones

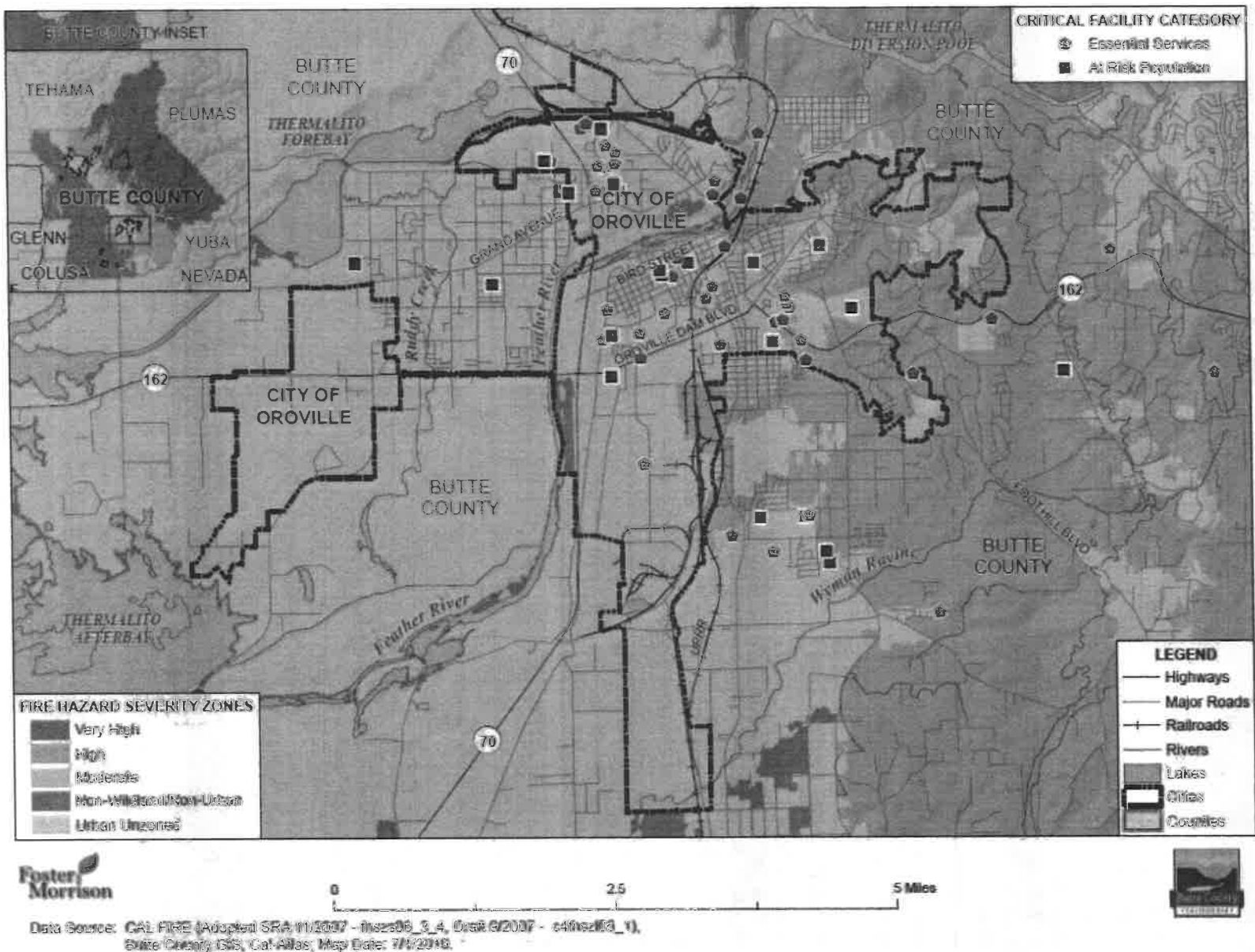


Table D-51 City of Oroville – Critical Facilities by Fire Hazard Severity Zone

Fire Hazard Severity Zones/ Critical Facility Category / Critical Facility Type	Facility Count
High	
Essential Services Facilities	
Health Care	13
Public Assembly Point / Evacuation Center	1
Essential Services Facilities Total	14
High Total	14
Moderate	
Essential Services Facilities	
Wastewater Treatment Plant	1
Essential Services Facilities Total	1
At Risk Population Facilities	
School	3
At Risk Population Facilities Total	3
Moderate Total	4
Urban Unzoned	
Essential Services Facilities	
Fire	3
Health Care	6
Law Enforcement	3
Public Assembly Point / Evacuation Center	1
Radio Sites	3
Logistics Hub	6
Emergency Operation Center	1
DOC	1
Emergency Animal Shelter	1
Essential Services Facilities Total	25
At Risk Population Facilities	
School	17
At Risk Population Facilities Total	17
Urban Unzoned Total	42
Grand Total	
	60

Source: CAL FIRE, Butte County

Future Development

The pattern of increased damages is directly related to increased urban growth spread into historical forested areas that have wildfire as part of the natural ecosystem. Many WUI fire areas have long histories of wildland fires that burned only vegetation in the past. However, with new development, a wildland fire following a historical pattern now burns developed areas. Growth in the City, especially growth in the wildland urban interface, will increase the risk to wildfire. Adherence to building codes and the use of fire-resistant construction methods as well as implementing sound vegetation management practices will reduce the impact of wildfire to future development.

GIS Analysis

Butte County's 3/21/2019 Assessor Data and the County's GIS parcel data were used as the basis for the inventory of assessed values for both improved and unimproved parcels within the City. Using GIS, the 260 parcels associated with future development projects for which the analysis was to be performed was identified. Future development in FHSZs are shown on Figure D-26 and detailed in Table D-52.

Figure D-26 City of Oroville – Future Development in Fire Hazard Severity Zones

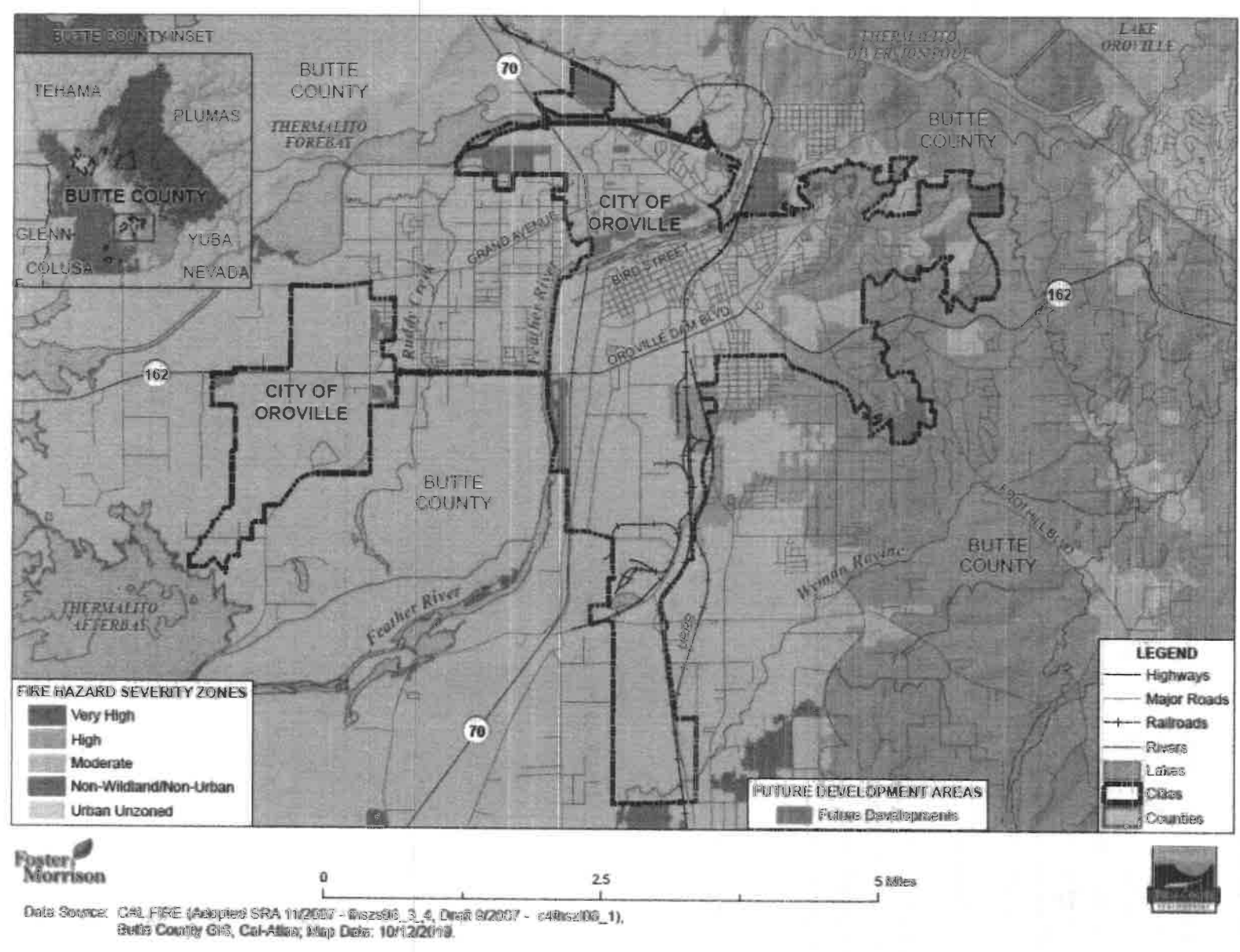


Table D-52 City of Oroville – Future Development Parcels and Acreages in Fire Hazard Severity Zones

Fire Hazard Severity Zone / Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
City of Oroville			
High			
Acacia Estates	2	0	6.7
Heritage Oak Estates	3	1	46.5
Highlands Estates	1	0	13.3
Mission Olive Ranch	14	2	4.8
Oak Park	1	0	5.1
High Total	21	3	76.4
Moderate			
Buttewoods 2	3	0	56.1
Calle Vista Estates Unit II	48	44	24.4
Canal View Estates	3	0	8.4
Deer Creek Estates 2	3	0	24.3
Ford Drive	2	0	22.4
Forebay Estates	1	0	40.2
Linkside Place Phase I	66	6	11.5
Martin Ranch	1	0	73.1
Mission Olive Ranch	6	0	1.9
Nelson 56	1	0	56.5
Rivers Edge	1	0	10.3
Riverview	4	0	38.8
Vista Del Oro	95	22	15.2
Moderate Total	234	72	383.0
Urban Unzoned			
Greenview Estates	1	1	1.9
Rosewood Estates	1		5.0
Urban Unzoned Total	2	1	6.9
City of Oroville Total	257	76	466.4
Unincorporated Butte County			
High			
Oak Park	3	0	94.3
High Total	3	0	94.3
Unincorporated Butte County Total	3	0	94.3

Fire Hazard Severity Zone / Future Development	Total Parcel Count	Improved Parcel Count	Total Acres
Grand Total	260	76	560.6

Source: CAL FIRE, City of Oroville GIS,

D.6 Capability Assessment

Capabilities are the programs and policies currently in use to reduce hazard impacts or that could be used to implement hazard mitigation activities. This capabilities assessment is divided into five sections: regulatory mitigation capabilities, administrative and technical mitigation capabilities, fiscal mitigation capabilities, mitigation education, outreach, and partnerships, and other mitigation efforts.

D.6.1. Regulatory Mitigation Capabilities

Table D-53 lists regulatory mitigation capabilities, including planning and land management tools, typically used by local jurisdictions to implement hazard mitigation activities and indicates those that are in place in the City of Oroville.

Table D-53 City of Oroville Regulatory Mitigation Capabilities

Plans	Y/N Year	Does the plan/program address hazards? Does the plan identify projects to include in the mitigation strategy?
		Can the plan be used to implement mitigation actions?
Comprehensive/Master Plan/General Plan	2016	Multi-Hazards Plans, Yes
Capital Improvements Plan	2014	Infrastructure Commercial and Residential. Yes.
Economic Development Plan		
Local Emergency Operations Plan	2017	City of Oroville Emergency Operations Plan. Yes
Continuity of Operations Plan	2017	Emergency Operations Plan. Yes
Transportation Plan	2017	Emergency Operations Plan
Stormwater Management Plan/Program	2019	Early Planning Stages, No.
Engineering Studies for Streams		
Community Wildfire Protection Plan	2014	Wildfires
Other special plans (e.g., brownfields redevelopment, disaster recovery, coastal zone management, climate change adaptation)	2014 SCOR	
Building Code, Permitting, and Inspections	Y/N	Are codes adequately enforced?
Building Code	Y	Version/Year: 2016 California Code, Title 24
Building Code Effectiveness Grading Schedule (BCEGS) Score	Y	Score: Class 3

Fire department ISO rating:		Rating:
Site plan review requirements	Y	All new construction is reviewed for site compliance
		Is the ordinance an effective measure for reducing hazard impacts?
Land Use Planning and Ordinances	Y/N	Is the ordinance adequately administered and enforced?
Zoning ordinance	Y	Yes. Hazard mitigation incorporated into ordinances
Subdivision ordinance	Y	Yes. Mirrors state ordinance
Floodplain ordinance	Y	Building elevations and electrical raised, etc.
Natural hazard specific ordinance (stormwater, steep slope, wildfire)	Y	Hillside ordinance
Flood insurance rate maps	Y	
Elevation Certificates	Y	Covers all new development
Acquisition of land for open space and public recreation uses	Y	Master Facility Plan and parkland set asides for larger developments.
Erosion or sediment control program	Y	Parcel-specific
Other		
How can these capabilities be expanded and improved to reduce risk?		
Oroville has operated for several years with reduced staff, and is now re-staffing to minimum effective levels.		

Source: City of Oroville

City of Oroville 2030 General Plan (2015)

The General Plan provides the fundamental basis for the City's land use, development and conservation policy, and represents the basic community values, ideals and aspirations that will govern the City through 2030. This General Plan addresses all aspects of development, including land use; community character; circulation and transportation; open space, natural resources and conservation; public facilities and services; safety; and noise.

California Government Code Section 65300 requires the General Plan to be comprehensive and internally consistent, and to provide long-term guidance for the community. Although the General Plan is required to address the issues specified by State law, it may be organized in a way that best suits the City of Oroville.

The General Plan includes a Safety Element that focuses on safety issues to be considered in planning for the present and future development of the Oroville Planning Area. Identified hazards include wildfire, geologic/seismic, flooding, and other natural and man-made hazards (such as hazardous materials). Mitigation-related actions and objective summaries are as follows:

- **GOAL SAF-1:** Reduce the risk of injury, loss of life, and property damage from earthquakes, landslides, and other geologic hazards.
 - ✓ Policy P1.1 Group and locate new residential development in such a way as to avoid areas of geologic hazard, including steep slopes and areas of unstable soils.
 - ✓ Policy P1.2 Require all new developments to be subjected to a geotechnical study prior to development approval and to mitigate any identified hazards to a level of insignificance. If mitigation is not possible, do not approve the development.

- ✓ Policy P1.3 Encourage retrofitting of structures, particularly older buildings, to withstand earthquake shaking and landslides, consistent with state Building Codes and Historic Building Codes.
 - ✓ Policy P1.4 Ensure that new development incorporates design and engineering that minimizes the risk of damage from seismic events and landsliding, consistent with state Building Codes and Historic Building Codes.
- **Goal SAF-2:** Reduce hazards associated with flooding, including flooding caused by failure of Oroville Dam.
- ✓ Policy P2.1 Discourage development within the Feather River floodplain and other flood-prone areas, in order to minimize risks associated with flooding.
 - ✓ Policy P2.2 If development occurs within flood plains, ensure that existing and proposed structures are provided adequate protection from flood damage and hazards.
 - ✓ Policy P2.3 Continue to work with appropriate local, State, and federal agencies (particularly the Federal Emergency Management Agency) to maintain the most current flood hazard and floodplain information and use it as a basis for project review and to guide development in accordance with federal, State, and local standards.
 - ✓ Policy P2.4 Continue to participate in the Federal Emergency Management Agency National Flood Insurance Program – Community Rating System.
 - ✓ Policy P2.5 Where feasible, given flood control requirements, maintain the natural condition of waterways and flood plains to ensure adequate groundwater recharge and water quality, preservation of habitat, and access to mineral resources.
 - ✓ Policy P2.6 Support a multi-use concept of flood plains, flood-related facilities, and waterways, including, where appropriate, the following uses:
 - flood control;
 - groundwater recharge;
 - water quality preservation;
 - open space;
 - agriculture;
 - nature study;
 - habitat preservation;
 - pedestrian, equestrian, and bicycle circulation;
 - outdoor sports and recreation.
 - ✓ Policy P2.7 Cooperate with all affected or interested public and private agencies involved to ensure that flood control improvements do not result in unacceptable degradation of environmentally sensitive areas.
 - ✓ Policy P2.8 Incorporate stormwater drainage systems in development projects to effectively control the rate and amount of runoff, so as to prevent increases in downstream flooding potential.
 - ✓ Policy P2.9 Explore the possibility of creating an additional stormwater detention area in Dry Creek.
 - ✓ Policy P2.10 If future studies establish a conclusive relationship between reservoir drawdown, refilling, and seismic activity, encourage the Department of Water Resources to manage the Oroville Dam water regime to reduce risk.

- ✓ Policy P2.11 Prior to project approval, consult Flood Insurance Rate Maps on file with the Planning Department to identify areas in the vicinity of a waterway or drainage course that have not been subject to detailed study. If the project falls within an area that has not been studied, perform studies and, if necessary, require mitigation or restrictions on development.
- **Goal SAF-3:** Protect lives and property from risks associated with wildland and urban fire.
 - ✓ Policy P3.1 Enforce fire protection standards as specified by the City of Oroville Fire Department, Butte County Fire Department, and California Department of Forestry and Fire Protection within rural and undeveloped portions of the Planning Area and in the urban-wildland interface, including implementation of fire safety ordinances to minimize wildland fire hazards, including incorporation of fire resistant building and roofing materials, and attainment and maintenance of “defensible space.” Defensible space may include revegetation with less flammable species, such as fire resistant native and adapted species, and the use of mulch to prevent erosion on bare soil.
 - ✓ Policy P3.2 Ensure that the development review process addresses wildland fire risk, including assessment of both construction- and project related fire risks particularly in areas of the City most susceptible to fire hazards. Review fire safety plans and provisions, consistent with California Public Resources Code (PRC) 4290 and 4291, for new development, including aspects such as emergency access, site design for maintenance of defensible space, and use of non-combustible materials.
 - ✓ Policy P3.3 Require that all development in areas of potential wildland fire hazards, including areas designated by CAL FIRE as High Fire Hazard Severity Zones, include the following:
 - Fire breaks adjoining open space areas.
 - Adequate access to adjoining open space areas.
 - Adequate clearance around structures.
 - Fire-resistant ground cover.
 - Fire-resistant roofing materials.
 - Adequate emergency water flow.
 - ✓ Policy P3.4 Incorporate drought-resistant and fire-resistant plants in public works projects in areas subject to wildland fires.
 - ✓ Policy P3.5 Regularly train Oroville Fire Department staff for wildland firefighting conditions.
- **Goal SAF-7** Prepare Oroville residents to respond to emergency situations.
 - ✓ Policy P7.1 Encourage a high degree of city-level self-sufficiency in emergency response, but coordinate with surrounding jurisdictions to the extent possible.
 - ✓ Policy P7.2 Work with Caltrans to coordinate establishment of appropriate emergency access routes through the City when closure of State highways is necessitated by weather-related or other emergencies.
 - ✓ Policy P7.3 Support the efforts of the Department of Homeland Security, Oroville Fire Department, Butte County Office of Emergency Services, and other agencies to educate the public about emergency preparedness and response.
 - ✓ Policy P7.4 Use the Butte County Local Hazard Mitigation Plan as the guide for disaster planning in the Oroville Planning Area.

Mitigation Related Ordinances

Zoning (Chapter 26)

The purpose of this chapter is to provide specific guidelines for the development of the City in such a manner as to achieve progressively the general arrangement of land uses and implement the policies depicted in the General Plan. More specifically, this chapter is intended to achieve the following objectives:

- To regulate and limit the height, number of stories and size of buildings and other structures hereafter designed, erected or altered.
- To regulate and determine the size of building setbacks and other open spaces;
- To regulate and limit the density of the City's residential population.
- To divide the City into zoning districts of whatever number, shape and area are deemed best suited to carry out these regulations and provide for their enforcement.
- To protect, conserve, stabilize and enhance real property values and the City's natural assets.
- To provide adequate open space for light and air, and to minimize the risk of fires and other hazards to public safety.
- To promote a safe, effective traffic circulation system and provide for appropriate off-street parking and loading facilities.
- To promote, protect and preserve the general public health, safety and welfare, and to implement the goals and objectives of the General Plan for the City of Oroville.

Subdivision (Chapter 23)

In the interest of protecting the health, safety and general welfare of the people of the City of Oroville, this chapter has as its purposes:

- To give effect to the California Subdivision Map Act;
- To give effect to the General Plan and specific plans of the City relative to the subdivision of land;
- To regulate, by local ordinance, those matters of land division and lot line adjustment not governed by the Subdivision Map Act;
- To facilitate and ensure orderly development of lands in the incorporated City;
- To implement the objectives established for the development of the City in conformance with its General Plan and any specific plans that may be adopted, and to ensure that a proposed subdivision or land division shall be considered in relation to those plans;
- To provide standards governing the surveys, designs and improvements of subdivisions, and the submission of maps, plans and specifications for the construction of improvements;
- To provide for a resolution governing standards for, and the construction and installation of, streets, roads, highways, public utilities and other improvements, as well as fee schedules for services rendered by the City;
- To provide for the creation of reasonable building sites by establishing appropriate standards for streets and lots, and to ensure that each property has a means of ingress and egress;
- To control the division of land that is subject to inundation by flooding from natural streams or artificial ponding, and other detrimental influences which may cause land to be unsuitable for satisfactory development;
- To control the division of land which may be subject to dangerous or unsuitable soil conditions of any type, or subject to any other impediments affecting the use of the land for human habitation;

Building Code (Chapter 6)

The purpose of this Chapter is to adopt by reference the 2010 edition of the California Building Standards Code, Title 24 of the California Code of Regulations, subject to the definitions, clarifications, and the amendments set forth in this Chapter. The purpose of this Chapter is also to provide minimum requirements and standards for the protection of the public safety, health, property, and welfare of the City of Oroville. This Chapter is adopted under the authority of Government Code Subsection 50022.2, Health and Safety Code Section 18941.5, and the California Constitution.

Flood Ordinance (Chapter 8B)

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Oroville. The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (FIRM) for the City of Oroville is adopted by reference and declared to be a part of this chapter. This FIRM is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allows implementation of this chapter and which are recommended to the city council by the floodplain administrator. The basis for establishing the area of special flood hazard is the flood insurance study (FIS) for Butte County, California, dated January 6, 2011, and accompanying flood insurance rate map panels related to the city of Oroville (FIRMS) and all subsequent amendments and/or revisions, which are hereby adopted by reference and declared to be a part of this chapter.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection conditions) shall constitute misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

In the interpretation and application of this chapter, all provisions shall be:

- Considered as minimum requirements;
- Liberally construed in favor of the governing body; and
- Deemed neither to limit nor repeal any other powers granted under state statutes.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

D.6.2. Administrative/Technical Mitigation Capabilities

Table D-54 identifies the City department(s) responsible for activities related to mitigation and loss prevention in Oroville.

Table D-54 City of Oroville's Administrative and Technical Mitigation Capabilities

Administration	Y/N	Describe capability Is coordination effective?
Planning Commission	Y	Reviews all use permits and maintains zoning code.
Mitigation Planning Committee	Y	Development Review Committee
Maintenance programs to reduce risk (e.g., tree trimming, clearing drainage systems)	Y	Regular street, tree, storm drain and parks maintenance
Mutual aid agreements	N	
Other		
Staff	Y/N FT/PT	Is staffing adequate to enforce regulations? Is staff trained on hazards and mitigation? Is coordination between agencies and staff effective?
Chief Building Official	PT	Adequate until development pace accelerates
Floodplain Administrator	PT	Adequate until development pace accelerates
Emergency Manager	PT	More training and dedicated staff needed
Community Planner	PT	Adequate until development pace accelerates
Civil Engineer	PT	Minimally adequate
GIS Coordinator	FT	Adequate until development pace accelerates
Other – front counter personnel	3 FT	Adequate until development pace accelerates
Technical		
Warning systems/services (Reverse 911, outdoor warning signals)	Y	The City of Oroville Mass Evacuation Notification will consist in use of Butte County evacuation system. In addition, the City of Oroville will use its' own notification system which is ongoing. The City of Oroville is collaborating with the California Department of Water Resource on this project.
Hazard data and information	N	
Grant writing	PT	
Hazus analysis	N	
Other		
How can these capabilities be expanded and improved to reduce risk?		
Staffing levels increased, including risk management and notification capacity.		

Source: City of Oroville

D.6.3. Fiscal Mitigation Capabilities

Table D-55 identifies financial tools or resources that the City could potentially use to help fund mitigation activities.

Table D-55 City of Oroville's Fiscal Mitigation Capabilities

Funding Resource	Access/ Eligibility (Y/N)	Has the funding resource been used in past and for what type of activities? Could the resource be used to fund future mitigation actions?
Capital improvements project funding	Y	Varies
Authority to levy taxes for specific purposes	Y	Streets, landscaping, fire
Fees for water, sewer, gas, or electric services	Y	By individual utilities
Impact fees for new development	Y	Parks, police, fire, traffic, sewer, storm drainage, schools
Storm water utility fee	N	Utility fee not legal in Calif, impact fees yes
Incur debt through general obligation bonds and/or special tax bonds	Y	Mello Roos has funded several subdivisions in the past.
Incur debt through private activities	Y	Can access IDB's, CIEDB, etc. as needed
Community Development Block Grant	Y	Active user
Other federal funding programs	Y	As opportunity presents
State funding programs	Y	As opportunity presents
Other		
How can these capabilities be expanded and improved to reduce risk?		
Improved staffing levels to take advantage of access to consultants and to increase capacity to consider, create, submit and implement		

Source: City of Oroville

D.6.4. Mitigation Education, Outreach, and Partnerships

Table D-56 identifies education and outreach programs and methods already in place that could be/or are used to implement mitigation activities and communicate hazard-related information.

Table D-56 City of Oroville's Mitigation Education, Outreach, and Partnerships

Program/Organization	Yes/No	Describe program/organization and how relates to disaster resilience and mitigation. Could the program/organization help implement future mitigation activities?
Local citizen groups or non-profit organizations focused on environmental protection, emergency preparedness, access and functional needs populations, etc.	Y	Especially local park district and those dedicated to serving disadvantaged populations.
Ongoing public education or information program (e.g., responsible water use, fire safety, household preparedness, environmental education)	N	
Natural disaster or safety related school programs	Y	Through the schools
StormReady certification	N	
Firewise Communities certification	N	

		Describe program/organization and how relates to disaster resilience and mitigation. Could the program/organization help implement future mitigation activities?
Program/Organization	Yes/No	
Public-private partnership initiatives addressing disaster-related issues	N	
Other		
How can these capabilities be expanded and improved to reduce risk?		
Additional staffing to replace capacity lost during recession		

Source: City of Oroville

D.6.5. Other Mitigation Efforts

The City of Oroville has many other completed or ongoing mitigation efforts that include the following:

- Flood mitigation
 - ✓ Drainage ditches maintenance
 - ✓ Yearly inspection
 - ✓ Yearly obstruction removal and cleanup
 - ✓ Yearly spraying to prevent and minimize unwanted growth of vegetations / obstructions
 - ✓ Necessary permit from related State agencies
- Storm Drain maintenance
 - ✓ City has a Storm Drain Master plan
 - ✓ Assign an officer over storm drain system
 - ✓ City is also in the process of updating a Storm Drain Master Plan
 - Include comprehensive survey of the entire system
 - Analysis of current system
 - Establish priority and budget for upgrade
 - Application for MS4 permit
 - ✓ Regular storm drain maintenance
 - Debris removal at drainage inlet
 - Storm drain pipes inspection
 - Removal of surface debris
 - Street sweeping
 - Leaf pickup program (debris that otherwise will clog storm drains)
 - Grate inspection, lockdown, replacement program
 - Purchase dedicated machines and tools for storm drain maintenance, including additional street sweeper, vacuum truck, and leaf pickup vehicles.
 - ✓ City is proceeding with studies towards a levee certification
 - Levee analysis is underway
 - Mitigation projects if necessary
 - Share findings with partners, stakeholders, and regulating agencies
 - Obtain levee certification

- Continuity of Government during Public Safety Power Shut-off by upgrading or renewing generators at the public safety building, city hall, and airport.
- Sewerage Commission Oroville Region (SCOR)
- Improve communication line for existing cell towers that connect to Public Safety Communication Center.

D.7 Mitigation Strategy

D.7.1. Mitigation Goals and Objectives

The City of Oroville adopts the hazard mitigation goals and objectives developed by the HMPC and described in Chapter 5 Mitigation Strategy.

D.7.2. NFIP Mitigation Strategy

The City of Oroville joined the National Flood Insurance Program (NFIP) on September 24, 1984. As a participant of the NFIP, the City of Oroville has administered floodplain management regulations that meet the minimum requirements of the NFIP. The management program objective is to protect people and property within the City. The City of Oroville will continue to comply with the requirements of the NFIP in the future.

In addition, the City of Oroville actively participates with Butte County to address local NFIP issues through a regional approach. Many of the program activities are the same for the City of Oroville as for Butte County since participation at the County level includes all local jurisdictions.

Upon request, the City of Oroville Public Works, Building and Planning Divisions provide map information services, public hazard disclosure, and flood protection information. This information is readily available to the public and consists of current and accurate flood mapping. In addition, the Public Works Department provides information about our stormwater management program and up-to-date information related to the maintenance of our drainage system.

The NFIP Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS which are to reduce flood losses, facilitate accurate insurance rating, and promote the awareness of flood insurance. The City of Oroville is not a current participant in the CRS program.

More information about the floodplain administration in the City of Oroville can be found in Table D-57.

Table D-57 City of Oroville Compliance with NFIP

NFIP Topic	Comments
Insurance Summary	

NFIP Topic	Comments
How many NFIP policies are in the community? What is the total premium and coverage?	99 policies \$99,829 in premiums \$29,287,400 in coverage
How many claims have been paid in the community? What is the total amount of paid claims? How many of the claims were for substantial damage?	21 paid claims \$494,395 in paid claims 3 substantial damage claims
How many structures are exposed to flood risk within the community?	51 in 1% annual chance floodplain 452 in 0.2% annual chance floodplain
Repetitive Loss (RL) and Severe Repetitive Loss Properties (SRL)	1 RL 0 SRL
Describe any areas of flood risk with limited NFIP policy coverage	Unknown
Staff Resources	
Is the Community Floodplain Administrator or NFIP Coordinator certified?	No
Provide an explanation of NFIP administration services (e.g., permit review, GIS, education or outreach, inspections, engineering capability)	Permit review, stormwater capture, engineering and inspection capabilities
What are the barriers to running an effective NFIP program in the community, if any?	Staffing levels
Compliance History	
Is the community in good standing with the NFIP?	Y
Are there any outstanding compliance issues (i.e., current violations)?	N
When was the most recent Community Assistance Visit (CAV) or Community Assistance Contact (CAC)?	CAV 8/10/2010 GTA 9/20/2016
Is a CAV or CAC scheduled or needed?	N
Regulation	
When did the community enter the NFIP?	9/24/1984
Are the FIRMs digital or paper?	Digital
Do floodplain development regulations meet or exceed FEMA or State minimum requirements? If so, in what ways?	Y via levee protections outside the 100-year floodplain
Provide an explanation of the permitting process.	Review of design & grading for new development, stormwater compliance under Regional Water Quality Control Board permit.
Community Rating System	
Does the community participate in CRS?	NO
What is the community's CRS Class Ranking?	N/A
What categories and activities provide CRS points and how can the class be improved?	N/A
Does the plan include CRS planning requirements?	N/A

D.7.3. Mitigation Actions

The planning team for the City of Oroville identified and prioritized the following mitigation actions based on the risk assessment. Background information and information on how each action will be implemented and administered, such as ideas for implementation, responsible office, potential funding, estimated cost, and timeline are also included. The following hazards were considered a priority for purposes of mitigation action planning:

- Dam Failure
- Drought and Water Shortage
- Earthquake and Liquefaction
- Floods: 100/200/500 year
- Floods: Localized Stormwater
- Levee Failure
- Severe Weather: Extreme Heat
- Severe Weather: Freeze and Winter Storm
- Severe Weather: Heavy Rain and Storms (Hail, Lightning, Wind)
- Wildfire

It should be noted that many of the projects submitted by each jurisdiction in Table 5-2 in the Base Plan benefit all jurisdictions whether or not they are the lead agency. Further, many of these mitigation efforts are collaborative efforts among multiple local, state, and federal agencies. In addition, the countywide public outreach action, as well as many of the emergency services actions, apply to all hazards regardless of hazard priority. Collectively, this multi-jurisdictional mitigation strategy includes only those actions and projects which reflect the actual priorities and capacity of each jurisdiction to implement over the next 5-years covered by this plan. It should further be noted, that although a jurisdiction may not have specific projects identified for each priority hazard for the five year coverage of this planning process, each jurisdiction has focused on identifying those projects which are realistic and reasonable for them to implement and would like to preserve their hazard priorities should future projects be identified where the implementing jurisdiction has the future capacity to implement.

Multi-Hazard Actions

Action 1. *Integrate Local Hazard Mitigation Plan into Safety Element of General Plan*

Hazards Addressed: Climate Change, Dam Failure, Drought & Water shortage, Earthquake and Liquefaction, Floods: 100/200/500 year, Floods: Localized Stormwater, Hazardous Materials Transportation, Invasive Species: Aquatic, Invasive Species: Pests/Plants, Landslide, Mudslide, and Debris Flow, Levee Failure, Severe Weather: Extreme Heat, Severe Weather: Freeze and Winter Storm, Severe Weather: Heavy Rain and Storms (Hail, Lightning), Severe Weather: Wind and Tornado, Stream Bank Erosion, Volcano, Wildfire

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 8, 9

Issue/Background: Local jurisdictional reimbursement for mitigation projects and cost recovery after a disaster is guided by Government Code Section 8685.9 (AB 2140). Specifically, this section requires that each jurisdiction adopt a local hazard mitigation plan (LHMP) in accordance with the federal Disaster

Mitigation Act of 2000 as part of the Safety Element of its General Plan. Adoption of the LHMP into the Safety Element of the General Plan may be by reference or incorporation.

Other Alternatives: No action

Existing Planning Mechanisms through which Action will be Implemented: Safety Element of General Plan, especially as incorporated into local ordinances and Zoning Code

Responsible Office: City of Oroville Community Development Department

Priority (H, M, L): High

Cost Estimate: Jurisdictional board/staff time

Potential Funding: Local budgets

Benefits (avoided Losses): Incorporation of an adopted LHMP into the Safety Element of the General Plan will help jurisdictions maximize the cost recovery potential following a disaster.

Schedule: As soon as possible

Action 2. *Enhance Public Education and Awareness of Natural Hazards and Public Understanding of Disaster Preparedness*

Hazards Addressed: Climate Change, Dam Failure, Drought & Water shortage, Earthquake and Liquefaction, Floods: 100/200/500 year, Floods: Localized Stormwater, Hazardous Materials Transportation, Invasive Species: Aquatic, Invasive Species: Pests/Plants, Landslide, Mudslide, and Debris Flow, Levee Failure, Severe Weather: Extreme Heat, Severe Weather: Freeze and Winter Storm, Severe Weather: Heavy Rain and Storms (Hail, Lightning), Severe Weather: Wind and Tornado, Stream Bank Erosion, Volcano, Wildfire

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 8, 9

Issue/Background: The City and County play a key role in public outreach/education efforts to communicate the potential risk and vulnerability of their community to the effects of natural hazards. A comprehensive multi-hazard public education program will better inform the community of natural hazards of concern and actions the public can take to be better prepared for the next natural disaster event.

Project Description: A comprehensive multi-hazard outreach program will ascertain both broad and targeted educational needs throughout the community. The City will work with the County and other agencies as appropriate to develop timely and consistent annual outreach messages in order to communicate the risk and vulnerability of natural hazards of concern to the community. This includes measures the public can take to be better prepared and to reduce the damages and other impacts from a hazard event. The public outreach effort will leverage and build upon existing mechanisms, will include elements to meet the objectives of Goal 3 of this LHMP Update, and will consider:

- Using a variety of information outlets, including websites, local radio stations, news media, schools, and local, public sponsored events;
- Creating and distributing (where applicable) brochures, leaflets, water bill inserts, websites, and public service announcements;
- Displaying public outreach information in County office buildings, libraries, and other public places and events;
- Developing public-private partnerships and incentives to support public education activities.

Location of Project: Citywide

Other Alternatives: Continue public information activities currently in place.

Existing Planning Mechanism(s) through which Action Will Be Implemented: Existing County outreach programs will be reviewed for effectiveness and leveraged and expanded upon to reach the broader region.

Responsible Office: City of Oroville in partnership with the County

Participating Jurisdictions: County and all cities.

Priority (H, M, L): High

Cost Estimate: Annual costs to be determined, and will depend on the scope and frequency of activities and events as well as volunteer participation

Benefits (Losses Avoided): Increase residents' knowledge of potential hazards and activities required to mitigate hazards and be better prepared. Protect lives and reduce damages, relatively low cost to implement.

Potential Funding: Local budgets, grant funds

Timeline: Ongoing/Annual public awareness campaign

Action 3. *City Infrastructure Protection*

Hazards Addressed: Climate Change, Dam Failure, Drought & Water shortage, Earthquake and Liquefaction, Floods: 100/200/500 year, Floods: Localized Stormwater, Hazardous Materials Transportation, Invasive Species: Aquatic, Invasive Species: Pests/Plants, Landslide, Mudslide, and Debris Flow, Levee Failure, Severe Weather: Extreme Heat, Severe Weather: Freeze and Winter Storm, Severe Weather: Heavy Rain and Storms (Hail, Lightning), Severe Weather: Wind and Tornado, Stream Bank Erosion, Volcano, Wildfire

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 8, 9

Issue/Background: The current infrastructure of the city cannot withstand the fast growth in population. The city needs a drainage culvert that can withstand the growing population. An overflow of these culverts

floods the street of Oroville such as Oro Dam Blvd. These floods will flow into the city sewage system, which cannot hold the increased capacity.

Project Description: This is a multi-project of increasing the size of the drainage system and improving sewage system.

Other Alternatives:

Existing Planning Mechanism(s) through which Action Will Be Implemented: Currently in planning stage.

Responsible Office/Partners: The City of Oroville public works, housing, and planning.

Cost Estimate: According to the City of Oroville, this cost is estimated at \$10,000,000

Benefits (Losses Avoided): Potential benefits are health and safety of citizens of Oroville, environmental hazards of streams and rivers.

Potential Funding: Local, State, and Federal funding

Timeline: 5 Years.

Project Priority: High

Action 4. *Planning for Mass Evacuation-Notifications Early Warning System*

Hazards Addressed: Climate Change, Dam Failure, Drought & Water shortage, Earthquake and Liquefaction, Floods: 100/200/500 year, Floods: Localized Stormwater, Hazardous Materials Transportation, Invasive Species: Aquatic, Invasive Species: Pests/Plants, Landslide, Mudslide, and Debris Flow, Levee Failure, Severe Weather: Extreme Heat, Severe Weather: Freeze and Winter Storm, Severe Weather: Heavy Rain and Storms (Hail, Lightning), Severe Weather: Wind and Tornado, Stream Bank Erosion, Volcano, Wildfire

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 8, 9

Issue/Background: A recent incident of the Oroville Dam cause panic and traffic congestion. This was cause by citizens attempting to evacuate at once. An early warning system would mitigate traffic congestion and risk of safety.

Project Description: This in-progress project is to rebuild the siren in the downtown area of Oroville.

Other Alternatives:

Existing Planning Mechanism(s) through which Action Will Be Implemented: Rebuilding the fibers within the sirens.

Responsible Office/Partners: The City of Oroville is partnership with the Department of Water Resources.

Cost Estimate: \$50,000 is the estimated cost to implement this project.

Benefits (Losses Avoided): Public safety and mitigate the congestion of traffic for citizens attempting to evacuate the downtown area.

Potential Funding: Local, state, and federal funding

Timeline: Five-year plan.

Project Priority: High

Action 5. *Weed Abatement*

Hazards Addressed: Wildfire, Drought, Extreme Heat, High Winds

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 9

Issue/Background: Fire-Fuel Reduction which has a high potential of causing a fire. Especially in the eastern areas of the City of Oroville. The city of Oroville believes a possible fire in these high hazards weed areas are a threat to the city/county areas in close proximity.

Project Description: Five-person team at 20-hours per weeks, to reduce potential fire causing fuel

Other Alternatives: No action.

Existing Planning Mechanism(s) through which Action Will Be Implemented: Public works with Oroville Fire Department working together to reduce fuel.

Responsible Office/Partners: The City of Oroville and Dept. of Water Resources are working together to implement this project.

Cost Estimate: According to the City of Oroville, this cost is estimated at \$50,000.

Benefits (Losses Avoided): Potential benefits are safety of citizens of Oroville.

Potential Funding: Local and State funding

Timeline: Continuous since 2011. This project will continue for Five-years.

Project Priority: High Priority.

Action 6. *Public Safety Power Shut-off (PSPS)*

Hazards Addressed: Functions of wildfires, wind, and heat. May be exacerbated by drought.

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 9

Issue/Background: During the past year 2018/19, the City of Oroville has endured several power outages due to the weather. During the power outages, the City of Oroville Government utilizes the use of generators. These generators were not built to withstand the numerous PSPS and need replacement.

Project Description: Replacement of City Generators:

The stakeholders rely on the flow of governmental services such as city hall, airports, and public safety departments to include public works for assistance. Replacement of these generators will mitigate the loss of access to city government in times of need such as the PSPS.

Other Alternatives: NO action

Existing Planning Mechanism(s) through which Action Will Be Implemented: The issue of PSPS is in the planning stages of the Local Hazard Mitigation Plan.

Responsible Office/Partners: The City of Oroville in partnership with Public Utilities Committee.

Cost Estimate: \$100,000 is the estimated cost to replace the generators

Benefits (Losses Avoided): The benefit of generator replacement would allow the stakeholder (Community) governmental access.

Potential Funding: Local, State, and Federal Funding.

Timeline: Five-year plan.

Project Priority: High

Action 7. *Community Development (Code Enforcement) post disaster recovery projects.*

Hazards Addressed: Fire and subsequent multi hazards

Goals Addressed: 1, 2, 3, 4, 5, 6, 7, 9

Issue/Background: Recent fire disasters to the adjacent areas of the City of Oroville has left the City vulnerable to unexpected hazards. These unexpected hazards are created from such things as rapid increase in population, environmental, flooding, and fires. The City of Oroville Code Enforcement is a subsection of Community Development and is currently understaffed and makes it difficult to mitigate the potential risk of fires by conducting building inspections.

Project Description: The project of code enforcement would be to mitigate hazards through citizen compliance of building codes and laws. Mitigation of fires through reduction of fuel beds within and outside the City of Oroville. Collaborate with fire departments and outside agency jurisdictions to mitigate fire hazards. This project includes public outreach such as presentations at neighborhood watch meetings.

Other Alternatives:

Existing Planning Mechanism(s) through which Action Will Be Implemented: The city has collaborated with the City Fire Department to ensure code enforcement law are being enforced.

Responsible Office/Partners: City Administration and City of Oroville Community Development Department.

Project Priority: High

Cost Estimate: \$25,000

Benefits (Losses Avoided): Mitigate loss of live and property.

Potential Funding: Local, Regional, State, and Federal funding.

Timeline: Continuous; however, 3-5 years

Action 8. *Flood Sewage Commission-Oroville Region (SC-OR)*

Hazards Addressed: Flood, Localized Flood, Dam Failure, Levee Failure

Goals Addressed: 1, 2, 3, 4, 7, 9

Issue/Background: Concerns regarding the capabilities to return to the SCOR plant during an evacuation and coordinating with emergency personnel. When the plant is flooded, all the pumps will shut down and sewage will back up into town and add to the flooding which will cause an environmental hazard. Rebuilding sewage infrastructure will be needed to support the growing population, climate change, and increase rains.

Project Description: Protect the treatment plant and the environment from adverse impact that may occur when hazardous or toxic wastes are discharged into the sewer system. Joint powers agreement between the City, Lake Oroville Area Public Utility District and Thermalito Irrigation District.

Other Alternatives:

Existing Planning Mechanism(s) through which Action Will Be Implemented: Designed and implemented a pretreatment program for publicly owned treatment works with a design flow of greater than five (5) million gallons per day increased to 6.5 million gallons per day or greater with industrial users subject to federal categorical Pretreatment Standards.

Responsible Office/Partners: SC-OR City of Oroville City Council member.

Project Priority: High Capital Improvement Plan

Cost Estimate: From Table 8.1 CIP - Sanitary Sewer Master Plan, City of Oroville

- Element 1: System Deficiencies \$8,488,000
- Element 2: System Upgrades \$3,705,000
- Element 3: System Expansion \$28,214,000
- Total \$40,407,000
- Reference: <http://www.cityoforoville.org/home/showdocument?id=9350>.

Benefits (Losses Avoided): Avoid contamination of treatment facilities.

Potential Funding: Local revenue

Timeline: Five to Ten years



**Tell the Council Members to VOTE NO!
The Oroville City Council wants to ban the sale
of flavored tobacco products in your community!**



WHAT YOU NEED TO KNOW

The City of Oroville is considering new regulations on the sale of flavored tobacco

- The Council will consider 4 different options that will directly impact retailers.
- The combined impact on retailers will be a LOSS of over \$660k per year.

WHY SHOULD YOU VOTE NO!

- This ordinance could harm your business!
- It gives your business to your competitors
- It will drive away some of your most valuable customers

ATTEND

SPEAK OUT!! SAY NO!

Public Hearing on Proposed Tobacco Ordinance

ATTEND

January 7th, 2016

Oroville City Hall, 1735 Montgomery St., Oroville, CA 95965

TAKE ACTION TODAY!!

CONTACT YOUR COUNCIL MEMBERS


Chuck Reynolds
Scott Thomson
Art Haley
Janet Goodson
David W. Pittman
Eric J. Smith

Mayor
Vice Mayor
Council Member
Council Member
Council Member
Council Member

creynolds@cityoforoville.org
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esmith@cityoforoville.org



Our mission at APCA is to assist Convenience Store and Gas Station Owners in increasing their business effectiveness by:

- Encouraging governmental actions beneficial to the industry
- Providing cost effective products and services to our members.
- Advising and educating the members to run the  businesses effectively.
- Inspire APCA members to adapt high level of business ethics that reflects a positive image for the industry.

Contact Your Council Member Today – Stand Up, Speak Out & Make a Difference!

HELP APCA HELP YOU! BECOME A MEMBER

www.apca.us

Hello City Planners and City Council

We provided 92 opposition letters for Consumers, Residents, Retailers and Visitors to City of Oroville which impacts the revenue and services to all stakeholders.

Here are more points of our concern:

1. Since 2016, the legal age to purchase all tobacco products in California including vaping devices has been 21 (except for active military with valid ID)
2. Raising the age to purchase all tobacco products to 21 ensures that teens who may turn 18 while still in high school can no longer purchase tobacco products for their underage friends thereby cutting off the most common social source for tobacco products.
3. All tobacco products, including vape products are required to be behind the counter and not available to any customers without the assistance of a sales clerk.
4. Many of our members have invested in age verification software that provides sales clerks with an additional tool to verify the customer's identity and age.
5. Licensed tobacco retailers are subject to regular compliance and sting operations to ensure that tobacco and alcohol are not sold to minors.
6. Banning flavored tobacco products at licensed tobacco retailers will push these sales onto the Internet or into the illicit market where no one checks ID's and products may be counterfeit.
7. State wide data collected by the Department of Public Health show that teens use of combustible tobacco products have dropped to historic lows smoking is no longer cool. Banning traditional tobacco products will do nothing to address the vaping issue and will deprive adult consumers of products they legally purchase in our stores.
8. Traditional tobacco products such as menthol cigarettes, wintergreen chewing tobacco, snus, and cigars are not being used by minors and should not be included in any sales ban that is targeted to reduce teen vaping
9. PLEASE CONTINUE TO PROVIDE FLAVORED TOBACCO AT ALL RETAILERS IN THE CITY OF OROVILLE, NOT JUST A FEW. MANY CUSTOMERS LACK TRANSPORTATION AND WOULD NOT BE FAIR FOR THEM. PROTECT OUR RIGHTS!
Thank you for all your support in listening to the retailers, their staff and adult consumers would like to oppose this ordinance and continue providing sales tax revenues to City of Oroville.

Name

Leanna Taylor

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

175 Oroville dr.

Hello City Planners and City Council

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Name

Amanda Welch

Resident

Retailer

Adult Consumer

ADDRESS

35 Mono Ave #5
Oroville, CA
95965

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Name

Resident

Retailer

Adult Consumer

ADDRESS

35 Mond Ave #7
Oroville CA 98965

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Name Brandaw Adkins

Resident ☒ Retailer ☐ Adult Consumer ☐

ADDRESS 4141 ORODAM blvd, East
APT # 4

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Name

C. N. Phillips Curt Phillips

Resident

C.P.

Retailer

Adult Consumer

ADDRESS

103 Flying Cloud Dr. Oroville CA 95965

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Name

Theodore Chastney

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

332 forbestown

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Name

Bryan Bresson

Resident

Retailer

Adult Consumer

ADDRESS

27 Nelson ave Apt #3 Oroville CA 95965

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Name Kendall Huse

Resident ☒ Retailer _____ Adult Consumer ☒

ADDRESS 15 Mono Ave # 9
Oroville, CA 95965

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Name

Travis Rubio

Resident

☒

Retailer

☐

Adult Consumer

☒

ADDRESS

15 mono #m

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Name Alex Thacker

Resident X Retailer _____ Adult Consumer X

ADDRESS 126 Mono Ave.

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Name

Wade Conner

Resident

☒

Retailer

Adult Consumer

ADDRESS

102 mono arc #2.

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Name

Resident

Retailer

Adult Consumer

ADDRESS

2190 18th Street

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Name

nichole self

Resident

X

Retailer

Adult Consumer

X

ADDRESS

21 Nelson ave #1 Oroville Ca 95965

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Name

Alexis Padilla

Resident

Retailer

Adult Consumer

ADDRESS

39 Nelson Ave #153
Oroville CA 95965

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Name

Resident

Retailer

Adult Consumer

ADDRESS

122 Mono Ave

Oroville CA 95965

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Name

Connie DeGeorge

Resident

☒

Retailer

☒

Adult Consumer

☒

ADDRESS

885 Yuba Ave Oroville CA

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Name Jazmine Ralston

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 35 mono Ave #2 Oroville CA, 95965

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Name Brandon Ralston

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 35 Mono Ave Apt #2
Oroville, CA 95969

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Name Brigyn Benkew

Resident _____ Retailer _____ Adult Consumer ☒

ADDRESS 136 Mono Ave Apt 5, Oroville, CA 95468

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Name Ashley Crane

Resident / Retailer _____ Adult Consumer /

ADDRESS 52 Flying Cloud Drive

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Name Sarah Clay

Resident ☒ Retailer ☐ Adult Consumer ☐

ADDRESS 122 mono Ave #2 Oroville CA 95965

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Name

Paul A Brown

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

25 MONA AVE APT 11 OROVILLE CA

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Name

Clarene Burt

Resident

Retailer

Adult Consumer

ADDRESS

15 MANO AVE APT C OROVILLE CA 95966

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Name CTH

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 64 Flying Cloud Dr

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Name

Scott E. Aggs

Resident ☒

Retailer ☐

Adult Consumer ☒

ADDRESS

929 Oregon Gulch Rd

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Name Tracy Hunter

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 929 Oregon Gulch Rd
Oroville Ca 95965

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Name

CHRISTA STAFFORD

Resident

X

Retailer

Adult Consumer

X

ADDRESS

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Name

Jeff Hall JEFFERY HALL

Resident

☒

Retailer

Adult Consumer

☒

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Name ERIC N. BIGGERSTAFF

Resident YES Retailer C Adult Consumer YES

ADDRESS 216 TABLE MTN BLVD APT 1
OROVILLE CA. 95965

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Name Travis Rubiola

Resident yes Retailer _____ Adult Consumer yes

ADDRESS 15 MONROE AVE

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Name John Holdaway

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 45 mono ave.

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Name Camie Enin

Resident X Retailer _____ Adult Consumer X

ADDRESS 2150 Fogg Ave #1
Oroville, Ca 95965

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Name KEVIN MILLER

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 25 Mono Ave, #7 Oroville CA

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Name

Resident

Retailer

Adult Consumer

ADDRESS

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Name Eric Goff

Resident X Retailer _____ Adult Consumer X

ADDRESS 25 Mono Ave #5
Oroville CA 95965

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Name Jacob morrow

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS #10 del oro

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Name Shane Campbell

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 25 Mono Ave #7 Oroville CA

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Name

Brett May

Resident

X

Retailer

Adult Consumer

Yes

ADDRESS

S Evanswood Circle

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Name

Dalton Boylen

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

143 Cutty Sark Ct.

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Name

Roberto Gonzalez

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

16 2nd Oroville

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Name

Angelica Rodriguez

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

26 mono ave Oroville, CA 95965

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Name

Steven Smith II

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

2475 V6 Road


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Name

 O Ryan McLaughlin

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

Box 2656 Oroville CA 95965

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Name

Kara Taylor

Resident

✓

Retailer

Adult Consumer

✓

ADDRESS

224 Windward Way

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Name

Drena Wilson

Resident

☒

Retailer

Adult Consumer

☒

ADDRESS

39 Nelson Ave Apt 27
Oro CA 95965

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Name Scott Reaster

Resident ☒ Retailer ☐ Adult Consumer ☒

ADDRESS 43 Flying Cloud Dr.

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Name

Kerwin Caldwell

Resident

☒ Retailer

☐ Adult Consumer

ADDRESS

31 Flying Cloud Dr 95965

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Here are more points of our concern:

1. Since 2016, the legal age to purchase all tobacco products in California including vaping devices has been 21 (except for active military with valid ID)
 2. Raising the age to purchase all tobacco products to 21 ensures that teens who may turn 18 while still in high school can no longer purchase tobacco products for their underage friends thereby cutting off the most common social source for tobacco products.
 3. All tobacco products, including vape products are required to be behind the counter and not available to any customers without the assistance of a sales clerk.
 4. Many of our members have invested in age verification software that provides sales clerks with an additional tool to verify the customer's identity and age.
 5. Licensed tobacco retailers are subject to regular compliance and sting operations to ensure that tobacco and alcohol are not sold to minors.
 6. Banning flavored tobacco products at licensed tobacco retailers will push these sales onto the Internet or into the illicit market where no one checks ID's and products may be counterfeit.
 7. State wide data collected by the Department of Public Health show that teens use of combustible tobacco products have dropped to historic lows — smoking is no longer cool. Banning traditional tobacco products will do nothing to address the vaping issue and will deprive adult consumers of products they legally purchase in our stores.
 8. Traditional tobacco products such as menthol cigarettes, wintergreen chewing tobacco, snus, and cigars are not being used by minors and should not be included in any sales ban that is targeted to reduce teen vaping
 9. PLEASE CONTINUE TO PROVIDE FLAVORED TOBACCO AT ALL RETAILERS IN THE CITY OF OROVILLE, NOT JUST A FEW. MANY CUSTOMERS LACK TRANSPORTATION AND WOULD NOT BE FAIR FOR THEM. PROTECT OUR RIGHTS!
- Thank you for all your support in listening to the retailers, their staff and adult consumers would like to oppose this ordinance and continue providing sales tax revenues to City of Oroville.

Name Rebecca Goff

Resident _____ Retailer _____ Adult Consumer ☒

ADDRESS 25 Mono Ave #5

EFT Notification - Kwik Serv Oroville Orodan

Mr Mayer + Members

I am here to oppose the ban on some
 Flavor Tobacco
~~Cigarette + Short~~. I don't know why our City wants to stop
 selling these certain brands in the City limit + wants to
 send all the business to adjacent towns. I am not
 against to stop selling these brands, we are following
 Federal + State laws to sell these products if you want
 to stop selling these products my suggestion is to pass
 the memorandum + send it to ~~stop sell~~ Fed + state
 + say pass the law + stop selling in the whole
 Country. why you want to stop us to sell these products
 we have to pay our Mortgage + other Exp to stay in
 business, we are creating jobs in the City + collecting
 Revenue for the State + City we are not doing any
 wrong deeds. In the City businesses already drop more
 than 50% due to Casino because they are not paying tax
 to state or City its very hard for businesses to survive
 in the City already. So I am opposing this to not pass to
 sell these products in the City

Thank You
 91-17-20

A-1 KWIK SERV
 2405 ORO DAM BLVD
 OROVILLE, CA 95966
 530-534-3273

AK Vasu Gas and Food
 2401 5TH AVE
 OROVILLE CA 95965-5819

RECEIVED 11/08/2019 08:04AM 5305343718

A1 KWIK SERV

From: Boyett Petroleum (800) Fax: 12092146604

To:

Fax: (530) 534-3718

Page: 1 of 2

11/07/2019 7:03 PM

Boyett Petroleum Prices Unbranded - Kwik Serv Oroville Orodan

WASH STATE PETROLEUM
1001 8TH AVE
SPokane, WA 99201-1001

WASH STATE PETROLEUM
1001 8TH AVE
SPokane, WA 99201-1001

11/7/19

Remarks for Oroville City Council Meeting, 1/7/20
Regarding Flavored Tobacco Products

In 1968, the State of California banned smoking in all grocery stores, but it still continued to be legal almost everywhere else.

Then, about 30 years ago, the City of Oroville proposed an ordinance that would prohibit smoking inside most buildings that are open to the public. The hearing, in this room, was so contentious, and so crowded, that it had to be moved to the State Theatre.

Even though the ordinance failed, by a vote of 4 to 3, it brought us some very unwanted attention. Oroville was one of three American cities that were targeted by Big Tobacco, which pumped nearly 8 thousand dollars into a recall campaign. Our mayor and two members of our city council lost their jobs over this one issue. And remember: this ordinance was NOT passed.

Then, just a few months later, the State of California passed a statewide law that was even more strict than what Oroville had proposed. We had some exceptions; this new law had none. If only we'd waited just a little while.

Last week, on New Year's Eve, the president of the United States announced that he would be placing a nation-wide ban on flavored tobacco products – but it may be only temporary. He is, of course, facing enormous pressure from tobacco industry lobbyists.

In May, this year, there will be an FDA review of all e-cigarettes, and only those that can demonstrate a benefit for U.S. public health will be permitted to stay on the market.

I don't think we should rely entirely on the federal government to act. But I prefer to advocate for a statewide law. Why should the 471 cities and 58 counties go through individual hearings and create a patchwork of separate ordinances?

What our Planning Commissioners objected to about doing a City of Oroville ordinance is that it would create an uneven playing field for our local merchants who sell these products. People could simply go to a different store in a neighboring city or in the unincorporated areas of the county to purchase these products.

Therefore, I am advocating that you urge the State of California to pass a law banning flavored tobacco products statewide.

Flavored Tobacco Policies in California
Updated 01/06/2020

1. Alameda
2. Albany
3. Alturas
4. Anderson
5. Berkeley
6. Beverly Hills
7. Burbank
8. Burlingame
9. Capitola
10. Cloverdale
11. Contra Costa County
12. Corte Madera
13. Culver City
14. Delano
15. El Cerrito
16. Fairfax
17. Fremont
18. Half Moon Bay
19. Hayward
20. Hermosa Beach
21. Lafayette
22. Laguna Niguel
23. Larkspur
24. Livermore
25. Los Angeles County
26. Los Gatos
27. Manhattan Beach
28. Marin County
29. Mono County
30. Novato
31. Oakland
32. Oxnard
33. Palo Alto
34. Portola Valley
35. Redondo Beach
36. Richmond
37. Sacramento
38. San Anselmo
39. San Carlos
40. San Francisco
41. San Leandro
42. San Mateo County
43. San Pablo
44. San Rafael
45. Santa Barbara County
46. Santa Clara County
47. Santa Cruz
48. Santa Cruz County
49. Santa Maria
50. Saratoga
51. Sausalito
52. Sonoma
53. South San Francisco
54. Ventura
55. Ventura County
56. Watsonville
57. West Hollywood
58. Windsor
59. Woodland
60. Yolo County

**CITY OF OROVILLE
RESOLUTION NO. 8829**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND
DIRECTING THE MAYOR TO EXECUTE A AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OROVILLE AND
THE OROVILLE CITY EMPLOYEES' ASSOCIATION**

(Agreement No. 1432-15)

BE IT hereby resolved by the Oroville City Council as follows:

1. The Mayor is hereby authorized and directed to execute an Amended and Restated Memorandum of Understanding between the City of Oroville and the Oroville City Employees' Association. A copy of the Amendment is attached hereto as Exhibit "A".
2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on January 7, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Charles Reynolds, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Bill LaGrone, City Clerk

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**AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING**

Between the

CITY OF OROVILLE

And the

OROVILLE CITY EMPLOYEES' ASSOCIATION (OCEA)

For the period between

JULY 1, 2018 AND SEPTEMBER 30, 2019
JANUARY 7, 2020 THROUGH JANUARY 6, 2023

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This Memorandum of Understanding, hereinafter referred to as the "Memorandum", has been approved by City Council Resolution No. 8751-_____ adopted at its Regular Meeting of October 2, 2018, January 7, 2020

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Section 1. RECOGNITION OF OROVILLE CITY EMPLOYEES' ASSOCIATION (OCEA)

The City formally recognizes the OCEA as the majority representative for all City employee CLASSIFICATIONS set forth in Exhibit "A" excluding confidential employees.

Section 2. SCOPE OF REPRESENTATION

The scope of representation of the meeting and conferring shall include those matters as set forth in the California Government Code Section 3504 et seq.

Section 3. MAINTENANCE OF BENEFITS

It is understood and agreed that there exists within the City, certain personnel rules, and regulations, policies, and benefits regarding members covered by this Memorandum. In the event of proposed changes to City Personnel Rules and Regulations, the OCEA shall be advised, for the purpose of enabling the City and the OCEA to meet and consult as soon as possible with respect to any proposed changes. The City shall not have the right to change City Personnel Rules and Regulations which contravene specific provisions of this Memorandum without prior meeting and conferring with the OCEA.

Section 4. MEETING RELEASE TIME

The City agrees to allow each OCEA member a total of four (4) hours of release time per calendar year to attend quarterly OCEA meetings. The above release time can only be used in one (1) hour blocks. Use of the release time must have the prior approval of the member's department head well in advance of the meeting. If, in the sole discretion of the member's department head that the use of the release time will disrupt City operations, release time will be denied. Such release time can only be used for attendance at the quarterly meetings and shall not rollover into the next calendar year if not used.

Section 5. CITY RIGHTS AND RESPONSIBILITIES

City retains, solely and exclusively, all the rights, powers and authority exercised or held prior to the execution of this memorandum, except as expressly limited by a specific provision of this memorandum. Without limiting the generality of the foregoing, the rights, powers, and authority retained solely and exclusively by the City as enumerated herein, include, but are not limited to the following subject to the requirements of this memorandum and/or any provision of law whether it be statutory or judicial: To manage and direct its business and personnel; to manage, control, and determine the mission of its departments, building facilities and operations; to create, change, combine or abolish jobs, departments and facilities in whole or in part; to subcontract or discontinue work for economic or operational reasons; to direct the work force; to increase or decrease the work force and determine the number of members needed; to hire, transfer, promote and maintain the discipline and efficiency of its members, to establish work standards, schedules of operation and reasonable work loads; to specify or assign work requirements and require overtime; to schedule working hours and shifts; to adopt rules of conduct and penalties for violation thereof; to determine the type and scope of work to be performed and the services to be provided; to determine the methods, processes, means, and places of providing services and to take whatever action necessary to prepare for and operate in an emergency.

Nothing in this Section shall be construed to limit, amend, decrease, revoke or otherwise modify the rights vested in the City by any law regulating, authorizing or empowering the City to act or refrain from acting.

Section 6. LAYOFF POLICY

6.1 Purpose

6.1.1 The City may initiate a layoff due to lack of work, lack of funds, or change in the organization.

6.2 City of Oroville – OCEA Cooperative Efforts

6.2.1 When the City determines that layoffs are imminent, it shall provide written notification to OCEA. Further, in the spirit of cooperation, the City or the OCEA may request a meeting to jointly discuss alternatives to layoff, including, but not limited to, attrition or a reduction in work hours. Every effort shall be made to fill vacant position(s) that are determined to be a necessity in the City with qualified laid-off employee(s).

6.2.2 Notwithstanding the effort to work cooperatively, the City has the exclusive right to determine the methods, means, numbers and kinds of personnel by which services are to be provided. The City's decision to make a reduction in force and/or layoff an employee(s) is not subject to the duty to meet and confer. However, the parties will meet and confer regarding the impact of those determinations.

6.3 Definitions

For the purposes of this section:

6.3.1 Layoff - separation of employee(s) from the active work force due to lack of work, lack of funds or change in the organization.

6.3.2 Temporary Employee - an at-will non-benefited employee who is hired on a temporary basis and works less than 1,000 hours in a fiscal year.

6.3.3 Probationary Employee - any employee tentatively appointed to a position prior to becoming a permanent employee.

6.3.4 Fulltime Permanent Employee - benefited employees who successfully complete their probationary period and who regularly work a minimum of 32 or more hours per week.

6.3.5 Part-time Permanent Employee - benefited employees who successfully complete their probationary period and who regularly work less than 32 hours per week.

6.3.6 Displacement Rights (Bumping) - a permanent employee who has more seniority may remove another employee in a lower classification and take their place.

6.3.7 Seniority - The length of service of consecutive time served from an employee's date of hire with the City. Service seniority for unpaid military leave will be considered in the manner prescribed by State and Federal law. Continuous employment includes paid leaves of absences.

If a City temporary employee is subsequently appointed to a fulltime position with the City, the employee's seniority shall be calculated from the date of temporary appointment, as long as there has been no break in continuity of service. This does not include Temp Agency employment with the City (i.e., Express Personnel, etc.).

In a case where two (2) or more employees in the same class in the same department have the same seniority date, the date of their employment application to the City of Oroville will determine seniority (See Oroville Personnel Rule 7. Seniority).

6.3.8 Lateral Displacement - An employee who has more seniority may remove another employee from within their same classification pursuant to 6.5.3.

6.3.9 Classification - a specific job title.

6.4 Order of Layoff & Procedure

6.4.1 Whenever it is determined that a layoff must occur within a job classification, the order of layoff shall be:

1. temporary employee
2. probationary employee
3. part-time and fulltime permanent employee

6.4.2 In each type of employment, the employee(s) with the least overall city seniority in the affected job classification(s) shall be laid-off first.

6.4.3 In the event that two (2) or more employees in a job classification within a Department have the same seniority, then the employee with the least seniority with the City shall be laid-off. If there is no distinction between seniority of two (2) or more employees, the order of layoff will be determined by the date on their application for employment with the City.

6.5 Displacement Rights

6.5.1 An employee may displace any other employee in a lower classification within their Department, if they have more seniority and can meet the minimum qualifications. An employee may also displace another employee in any position in any Department that they held previously. This does not include working in an out-of-class position.

OCEA employees may only displace an employee within the OCEA bargaining unit.

Only Administrative Assistants and Staff Assistants may displace laterally into another Department if they have accrued seniority. However, an employee who elects to displace laterally into another Department shall serve a three (3) month probationary period in the new Department. Monthly evaluations will be given to the employee. If two (2) of the three (3) month evaluations are unsatisfactory, the probationary period may be extended an additional three (3) months. If the employee does not pass their probationary period, the employee will be laid-off in accordance with this MOU.

6.5.2 Employees who are designated for layoff or displacement may elect, in lieu of layoff or displacement one of the following:

1. Displace laterally within the same classification (See 6.3.8).
2. Displace into a lower classification (See 6.3.6).

An employee who chooses to exercise their displacement rights must accept the salary, hours and working conditions of their new position. An employee will be allowed only one (1) displacement per layoff occurrence.

6.5.3. For the purposes of displacement, departments and positions are defined as follows:

Administration Department Assistant City Clerk

Finance Department Accountant Accounting Technician

Community Development Dept. Associate Civil Engineer Assistant Planner Associate Planner

Business Assistance and Housing Department Building Maintenance Technician II Housing Develop./Building Maint. Supervisor Office/Field Aide Admin/Program Analyst II Program Analyst I Code and Construction Compliance Specialist

Public Works and Parks & Trees Department Cement Finisher Cultural Facilities Coordinator Equipment Mechanic

Building Inspector	Lead Mechanic
Construction Inspector	Parks Maintenance Technician III
Counter Technician	Parks Maintenance Technician II
GIS Specialist/Eng. Tech	Parks Maintenance Technician I
Office Coordinator	Lead Public Works Operator III
	Public Works Operator III
	Public Works Operator II
Clerical Staff	Public Works Operator I
Administrative Assistant	Signal Technician/Electrician
Staff Assistant	Public Works Supervisor
	Collection System Operator I
	Collection System Operator II
	Lead Collection system Operator
	Lead Tree Worker

6.5.4. An employee who exercises their displacement rights shall be paid in the new job classification at the same salary range step (i.e., Step D to Step D; Step F to Step F; etc.).

6.5.5 If an employee with permanent status chooses not to displace an employee in a lower job classification or laterally displace an employee, they shall be laid-off, and the City agrees not to challenge unemployment benefits.

6.5.6 An employee may request layoff in lieu of the opportunity to displace an employee by notifying the Personnel Department in writing within five (5) business days of the notice of layoff. If an employee requests layoff in lieu of displacement, they shall forfeit all recall rights except to a vacancy in the same classification from which the employee was laid-off. In this case, the employee shall be entitled to recall rights for a period of one (1) year from the effective date of the layoff.

6.5.7 An employee who is in a promotional probationary status and is affected by a layoff or is displaced by an employee exercising their displacement rights shall be allowed to return to their former job classification where they held permanent status, and the employee will be allowed to invoke any of their displacement rights. If the job classification in which the employee previously held permanent status no longer exists, the employee will be allowed to invoke any of their displacement rights. If the employee has no displacement rights to invoke, they will be laid-off without any right of recall.

6.5.8 A new City employee who has not completed their probationary status has no layoff rights.

6.5.9. Future salary step adjustment opportunities shall be made in accordance with the OCEA Memorandum of Understanding and/or the City's Personnel Rules. Time served in the job classification since the most recent step increase prior to when the layoff/displacement occurred, shall count toward the interval required for consideration of salary step advancement.

6.6 Seniority List

6.6.1 At least five (5) business days prior to written notices of layoff, the City shall provide a current seniority list to affected employee(s) and the Association's Labor Representative for the OCEA bargaining unit. The seniority list shall show the employee names, classification, seniority date, and the process for reporting discrepancies. The seniority list shall be deemed correct unless an employee or the OCEA notifies the Personnel Department to the contrary, in writing, within five (5) business days of the receipt of the seniority list.

6.7 Notification of Layoff

6.7.1 The City will provide a written Notice of Layoff to all affected employee(s) within ten (10) business days in advance of the effective date of layoff. The written Notice of Layoff will include a list of all positions in which the employee may invoke any of their displacement rights. The written Notice of Layoff will be hand-delivered to the employee and the employee will sign for receipt of the Notice. The

Association's Labor Representative will receive a copy of all written Notice of Layoff at the same time the affected employee(s) are notified.

6.7.2 Any employee who is on a paid or unpaid leave or not in attendance at their worksite shall be affected by the layoff in accordance with the provisions of this Section. With such written Notice of Layoff, the employee shall be informed of their rights to which they are entitled and the procedure to be followed, including a list of all positions in which the employee may invoke any of their displacement rights. The Notice of Layoff shall be mailed to the employee via U.S. certified/return receipt mail to the last known address filed with the Personnel Department. The Association's Labor Representative will receive a copy of all written Notices of Layoff at the same time the affected employee(s) are notified.

6.7.3 Laid-off/Displaced employees shall be paid accrued leaves in accordance with the OCEA Memorandum of Understanding, applicable City policies and rules, and applicable Laws.

6.8 Re-Employment Following Layoff/Displacement

6.8.1 Employee(s) shall be entitled to re-employment rights for a period of one (1) year from the effective date of layoff or displacement. To expedite re-employment, more than one (1) laid-off/displaced employee may be notified when an opening occurs. The laid-off/displaced employee(s) will be re-hired in inverse order of layoff. A laid-off/displaced employee shall be required to meet the qualifications of the classification to which they are recalled (i.e., license(s), certification(s), etc.).

6.8.2 When a vacancy occurs in a job classification, the laid-off or displaced employee(s) eligible to return to that job classification shall be recalled in the inverse order of layoff. Employees with permanent status who were laid-off or displaced are eligible to return to the job classification in which permanent status was held but shall have no recall rights to any job classification in which probationary status was held at the time of layoff or displacement.

6.8.3 Laid-off/Displaced Employees: The effective date of layoff shall be the employee's last day working at the City. When a vacancy exists, and employees are to be re-employed, notice of the opening(s) shall be sent via U.S. certified/return receipt mail, to the last known address on file in the Personnel Department. It shall be incumbent upon the laid-off employee to advise the Personnel Department, in writing, of any change in address. The laid-off employee shall have five (5) business days, following the notification from the City, to notify the City, in writing, of their intent to return to work.

6.8.4 An employee who exercises their re-employment rights shall be paid the salary range step they received immediately prior to layoff/displacement. Future salary step adjustment opportunities shall be made in accordance with the OCEA Memorandum of Understanding and/or the City's Personnel Rules. Time served in the job classification since the most recent step increase prior to when the layoff/displacement occurred, shall count toward the interval required for consideration of salary step advancement.

6.8.5 Laid-off/Displaced employees who accept re-employment will earn sick leave and vacation at the same accrual amounts the employee received prior to being laid-off/displaced, and any sick leave balances will be restored.

6.8.6 The laid-off employee shall have a reasonable period of time to return to work, not to exceed fifteen (15) business days. If the laid-off employee fails to respond to the notice of re-employment within five (5) business days or fails to report to work within the reasonable time period as set forth above, they will forfeit all re-employment rights.

6.8.7 A laid-off/displaced employee shall lose their re-employment rights due to: 1) resignation; 2) retirement; 3) failure to return to work when recalled by the City; or 4) when the City has not recalled an employee to work for a period of one (1) year.

Section 7. BOOT ALLOWANCE

A Boot allowance of Two Hundred (\$200.00) Dollars per year shall be provided to all employees as a requirement or necessity to perform their duties. This amount shall be paid in the month of October for the following classifications:

Public Works Operators I, II and III
Park Maintenance Technicians I, II and III
Lead Equipment Mechanic
Lead Public Works Operator
Lead Tree Worker
Collection System Operator I
Collection System Operator II
Lead Collection System Operator
Equipment Mechanic
Traffic Signal Tech/Electrician
Cement Finisher
Building Maintenance Technician II
Building Inspector
GIS Specialist
Associate Civil Engineer
Construction Inspector
Code and Construction Compliance Specialist
Sr. Code Enforcement Specialist
Code Enforcement Specialist

Section 8. CALL-BACK PAY AND ON CALL PAY

- 8.1 Definition of Call-back: When an employee is not currently working their normal assigned work shift and is called back to work either prior to arriving or departing from the employee's worksite.
- 8.2 In the event of a call-back or return to duty, a member shall receive a minimum of two (2) hours of pay at the rate of one and one-half (1 ½) times the regular rate of pay. If the time worked exceeds two (2) hours, then the member shall receive pay for the time worked at one and one-half (1 ½) times the regular rate of pay, calculated to the nearest ten (10) minutes. OCEA members who are called back to work (as opposed to regularly scheduled overtime or continuation of a shift) shall not be required to take compensatory time off during the work week.
- 8.3 Time worked contiguous to and after a normally assigned work shift shall be treated as normal overtime.

- 8.4 The Department Head shall post a list for employees to sign up on a voluntary basis for On-call Service. The list shall be posted no later than 72 hours before requested On-Call Service shift. On-Call Services shall be assigned based on skill and qualifications. In cases where more than one employee has the same skill and qualifications, employees with more seniority shall have the first opportunity to sign up for On-Call duty. In cases of an emergency or pending emergency, the Department Head may place one or more employees on On-Call status. On-Call pay shall be distributed equally among qualified employees that voluntarily sign up for On-Call Service duty.

On-Call duty requires the employee so assigned to (1) be ready to respond immediately to calls, (2) be reachable by the City issued communication device, (3) be able to be at their workstation ready to begin addressing the On-Call issue within one half (1/2) hour.

Employees shall be compensated with on-call pay of \$2.00 per hour (16 hours at \$2.00 per hour) and \$48/day for Saturday, Sunday and Holidays. However, once the employee is contacted by dispatch or the Department Head, their pay rate will be at 1 and ½ their normal hourly salary for a minimum of two

hours in lieu of On-Call pay. Once the event is over, at the start of the next hour the employee shall return to the hourly On-Call pay rate.

Section 9. BLOOD BANK DONATION TIME

A member wishing to donate blood to the City Blood Bank Fund shall be released from work for the final hour of the work-day for such purpose. The verification of such donation shall be returned to the department head for inclusion with the bi-weekly attendance report in order for the member to receive credit for time worked.

Section 10. SHIFT DIFFERENTIAL

- 10.1 Employees who are required to work a majority of their shift between the hours of 5 :00 p.m. and 7:00 a.m. shall be compensated an additional 5% for all hours worked during that shift.
- 10.2 Employees who are required to work on weekends (Saturday and Sunday) shall receive an additional 5% for all hours worked on those days.
- 10.3 ~~Employees hired on or after October 2, 2018 are ineligible for shift differential.~~

Section 11. COMPENSATION, OVERTIME AND DEFERRED COMPENSATION

- 11.1 Effective October 2, 2018, Tier 1 and Tier 2 salary schedules will be implemented and are attached as Exhibit A. Employees hired before October 2, 2018 will be Tier 1 employees, with no change to the existing salary schedule and employees hired on or after October 2, 2018 will be Tier 2 employees. Tier 1 salary schedule will remain at 5% in between each step, A-H and Tier 2 salary schedule shall be 2.5% in between each step, A - O.

- 11.2 ~~Effective January 1, 2003, to be eligible for advancement to Step F or Step G the employee must have completed two (2) years within their current classification. Upon ratification and adoption of this MOU, Step H shall be created consisting of a 2.5% salary increase above Step G. Employees at Step G effective 07/01/2011 shall be placed at Step H on their next anniversary date. Effective 07/01/2012, to be eligible for advancement to Step H the employee must have completed one (1) year at Step G within their current classification.~~

~~Effective July 1, 2016, Step H shall be 5% above Step G. Employees at Step H on July 1, 2016 shall receive the additional 2.5%.~~

~~Steps under the Tier 1 salary schedule shall be 6 months between Step A and B, 1 year in between B-E, 2 years in between Step E-F and F-G and 1 year to Step H. However, each department head has the discretion to accelerate time between Steps E-F and F-G to one (1) year for outstanding performance and upon written recommendation to, and approval by, the Personnel Officer.~~

~~Steps under the Tier 2 salary schedule will be 6 months between Step A and B and then 1 year in between B-O.~~

11.3 Additional Compensation

Upon ratification of this MOU, employees shall receive a ~~4.53~~3% salary increase.

Effective July 1, 201~~7~~20, employees shall receive a ~~31~~4% salary increase.

~~Effective July 1, 2021, employees shall receive a 3% salary increase.~~

~~Effective July 1, 2022, employees shall receive a 3% salary increase.~~

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11.4 ~~In October 2016 and October 2017, or upon completion of the prior year's CAFR (whichever occurs first), if total core city revenues increase more than 7%, the City and OCEA will meet to discuss a potential additional salary increase.~~

11.5 ~~In October 2016, or upon completion of the prior year's CAFR (whichever occurs first), if total core city revenues decrease more than 5%, the City and OCEA will meet to discuss a potential salary decrease and/or deferment of the July 1, 2017, 1% increase in lieu of layoffs.~~

~~Total City of Groville Core Revenue Base: Property Tax, Sales & Use Tax, Transient Occupancy Tax, Utility User Tax, Franchise Tax, and Motor Vehicle in Lieu. The City agrees to advise and provide the OCEA revenue updates.~~

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11.6 Out of Class Pay

- a. A member assigned to temporary duties of thirty (30) days or less in a higher job classification shall not receive the pay of the higher job classification.
- b. A member who, within the fiscal year of July 1, through June 30, accrues more than thirty (30) days of temporary duties in a higher job classification, shall receive an additional five percent (5%), but not less than the bottom step, nor more than the top step of that higher job classification, commencing with the thirty-first (31st) day of such duties in a fiscal year. Such time shall not accrue from one fiscal year to the next.
- c. If it is known at the time of assignment that the member will be assigned to duties in a higher job classification for thirty-one (31) days or more, the member shall immediately receive an additional five percent (5%) above the member's normal pay, but not less than the bottom step, nor more than the top step of the higher classification.

11.6 Overtime

Members required to work in excess of forty (40) hours per week shall receive one and one-half (1 ½) times their regular rate of pay for all hours in excess of forty (40) hours. In computing the hours worked in any week, time off duty for compensatory time off and Holidays shall be calculated as time worked. Earned overtime shall be paid in the regular biweekly payroll; provided, however, that the member may elect to have the monetary value of the overtime assigned to an individual account of compensatory time off duty with a maximum accumulation of 120 hours. A member's decision to elect CTO instead of overtime pay is irrevocable. CTO shall be cashed out on the first paycheck in March and December of each year, or with the approval of the City Administrator in the case of an emergency.

11.7 Altered Schedules

At the discretion of the City and agreement with the OCEA, altered schedules of 4/10 or 5/8 may be implemented. If schedules are altered, then the use for vacation, sick leave, holidays, and comp time will coincide with the new schedule. For example, if a member works a 4/10 schedule and a holiday falls within the 4 days, employee would be paid for 10 hours. If the holiday falls on the regularly day off, the employee would flex that holiday to another work day.

11.8 Deferred Compensation

Effective the first payroll period in July 1989, the City shall offer regular full-time OCEA members the opportunity to participate in a Section 457 Deferred Compensation Plan with National Deferred, without a City contribution. Effective the first payroll period in July 2001, the City shall offer regular full-time OCEA members the opportunity to participate in a Section 457 Deferred Compensation Plan with the ICMA, without a City contribution.

11.9 License and Certificates

If a certificate or a license is required for a position, the City will reimburse employees for the cost of the certificate or license. In addition, if there is a renewal charge, the City will reimburse that as well.

11.10 The City will provide \$750 annually, for the term of the MOU, (non PERSable funds) for each unit member to apply, at their discretion, to their 457 deferred compensation account or to their flexible spending account. Disbursements shall be made on the first pay period in July of years 2020, 2021, 2022.

11.11 Flex Positions – The following OCEA classifications shall become flex positions. Meaning that once an employee meets all the education, certification, and qualification requirements for the next step in the classification series and if funding is available, they will automatically be promoted into the position and will be placed at Step A of the new salary range or at a step of the new range which is approximately five percent (5%) higher than the employees previous base salary (whichever is higher); but in no case shall the employee be compensated above the top step of the new salary range. The following classifications will be flex positions:

Park Maintenance Tech I	→	Park Maintenance Tech II
Public Works Operator I	→	Public Works Operator II
Staff Assistant	→	Administrative Assistant
Planning Assistant	→	Associate Planner
Accounting Technician I	→	Accounting Technician II
Collection System Operator I	→	Collection System Operator II

11.12 The City shall assume liability for notary duties performed by OCEA members in the scope of their City employment.

11.13 New Employee Orientation

This shall apply to new employees hired after the date of the Agreement who are appointed to a classification within this bargaining Unit for which the Union is recognized as the majority representative.

The City agrees to notify the union via email to the Labor Relations Representative, the time, date and location of the designated time to meet with the new employee(s) as soon as practically possible and/or will give 10 days' notice if the orientation meeting is known to be scheduled to take place 10 days in advance. The designee will receive up to 30 minutes release time, plus travel to and from the meeting, with the new employee.

The City will allow the Labor Relations Representative and/or his/her designee 30 minutes alone to meet with the new employee before or after the orientation meeting or another time that is mutually agreed upon.

The City agrees to provide, via electronic file, the following information for each new employee in the Unit:

Name, job title, department, work location, phone numbers for work, home and cell, if applicable, personal email and home address.

The City agrees to provide the union this same information for all bargaining unit employees on or about the 1st of each quarter (January, April, July and October).

Section 12. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS)

12.1 The City agrees to continue providing OCEA "Classic Members" with the 2% at 55 formula and employees shall pay the 7% employee contribution. This payment shall be deducted in accordance with IRS code 414(h)(2), making all such payments pre-tax. In addition, "Classic Members" shall have their retirement benefit calculations based off their single highest year.

12.2 Effective January 1, 2013 and upon hire, all new members to the CalPERS Retirement System shall receive the 2% at 62 retirement formula and shall pay 50% of the normal benefit formula and contribution rate and shall have their retirement benefit calculations based off their three (3) highest years.

"New members" shall be defined as an individual who becomes a member of the California Public Employees Retirement System (CalPERS) for the first time or re-enroll on or after January 1, 2013, and who was not an active member of another public retirement system prior to that date, and who is not subject to reciprocity with another public retirement system.

All members that do not fit into the definition of new members will be considered "Classic Members" of CalPERS.

12.3 The City agrees to maintain the 4th Level 1959 Survivor Benefit for all members.

~~In the event the City determines that implementation of enhanced retirement benefits to OCEA members is economically feasible, the City agrees to re-open negotiations.~~

Section 13. MEDICAL, DENTAL, LIFE, VISION, AND LONG-TERM DISABILITY INSURANCE

13.1 Medical Insurance

The City agrees to continue to provide insurance benefits for members and their dependents who are otherwise qualified and who desire coverage of medical, dental, life, vision, and long-term disability insurance.

The City agrees to contribute the following amounts towards employee and dependent medical insurance, effective May 19, 2015:

Tier 1

	Gold PPO	HDHP-10%	Silver PPO
EE Only	100%	100%	100%
EE + 1	\$906.40	\$879.92	\$853.46
EE + Family	\$1,075.50	\$1041.10	\$1,006.68

~~Effective January 1, 2016, if the PPO premiums increase more than 5%, OCEA and the City will meet to discuss an increase to the City's contribution towards medical insurance.~~

Tier 2

Health Insurance for represented employees hired by the City on or after October 2, 2018 - City contributions for Tier 2 employees shall be limited to the Silver PPO medical plan for employee, spouse and/or children at the contribution levels below. Employee only, can elect a different plan but will pay the difference. There shall be no city contribution towards spouse and/or children on any other plan than the Silver PPO.

Gold PPO

HDHP-10%

Silver PPO

EE Only	Silver PPO Premium Rate for EE Only		100%
EE + 1	\$0	\$0	\$853.45
EE + Family	\$0	\$0	\$1,006.68

If the current plans become unavailable within the above cost parameter, and a substitute plan or plans with comparable benefits and cost are not available, then the OCEA and the City may reopen this issue for negotiation during the term of this Memorandum, and the parties shall then meet and confer as soon as possible in order to mutually attempt to resolve the situation. In addition to the above, the City shall pay for each member the cost of life, vision and long-term disability insurance.

13.2 Dental Insurance

In addition, the City contributes \$66.40 per month towards dental insurance for the employee and their dependents.

13.3 Long-Term Disability

Effective December 1, 1989 the City shall have the carrier of the Long-Term Disability Policy amend its waiting period to 90 calendar days.

13.4 State Disability Insurance (S.D.I.)

Effective on or after April 1, 1991, and pursuant to an Employee State Disability Insurance (S.D.I.) election, OCEA members may participate in the S.D.I. Program.

a) Excluding Vacation from SDI required use of accrued leave.

Leaves of absence will require the full use of accrued sick leave, CTO and Safety Time before SDI may be taken. Vacation time will be excluded from required use.

13.5 Health Insurance Review Committee:

The City agrees to participate in a Joint Health Insurance Review Committee for the purposes of reviewing current insurance health benefits and Enhanced Retirement Benefits. The Human Resource Analyst and up to two (2) representatives from each City employee bargaining group may attend the meetings on behalf of the City of Oroville. The purpose of the Committee is ongoing review of health, dental and vision plans and making recommendations to the City Council, City Administrator and the OCEA members regarding benefit levels, services, methods of cost containment, alternative plans and the like. Committee members shall establish guidelines for conducting meetings, frequency of meetings and the Committee work program. Employee representatives shall not be charged vacation or other leave time if such meetings are held during the member's normal work hours, nor shall such members receive overtime or call-back pay for service on the Committee. The Committee shall have access to such non-confidential information as necessary to carry out its purpose.

The Committee will also study PERS, PARS, or Longevity steps for the purposes of enhancing the retirement benefit.

13.6 Approval of Future Plan Changes

- a) When the City or OCEA members agree that future changes in the health and dental insurance plan benefits or structure are needed, they shall be approved by a majority of the employees of the City of Oroville who are covered by the plan and who vote on such changes.
- b) The Health Insurance Review Committee established in Section 12.4 shall review and recommend to the Oroville City Council those proposed changes in the plan benefits and structure to be voted upon by the members pursuant to Subsection 12.5 (a). The proposed changes reviewed by the Committee may be initiated by the Committee, by City bargaining

units, or by the City, by and through the City Administrator. After review and acceptance of Committee recommendations by the City Council, the City Clerk shall, within fifteen (15) calendar days, conduct a secret ballot election of covered members. The City Clerk shall then report the results of the election to the Committee and the City Council. Notwithstanding the provisions hereof, if the Committee declines to recommend the City proposal to be submitted to a vote of the covered members, the City bargaining units agree to meet and confer with the City, upon the City's request, concerning any such proposal. If, after a reasonable period of negotiations, including implementation of established impasse procedures, an agreement has not been reached on the City's proposal, the City may submit the proposal to a vote of all covered members, in which case the results of the election shall be final.

Section 14. RECOGNITION FOR LENGTH OF SERVICE

In recognition for many years of continuous service as a City of Oroville employee, effective July 1, 2007, the City shall make an annual award to each qualifying employee in the amounts shown below:

<u>Length of Continuous Service</u>	<u>Annual Award</u>
15 years through 19 years	\$150.00 per year
20 years through 24 years	\$300.00 per year
25 years through 29 years	\$500.00 per year
30 years or more	\$600.00 per year

The City Council shall decide on the timing and manner for the award presentations.

Tier 2 employees hired on or after October 2, 2018, will not be eligible for Length of Service Awards.

Section 15. EDUCATIONAL INCENTIVE

15.2 Educational Incentive

All employees shall be eligible upon receipt of pertinent documentation for education incentive pay as follows:

B.A. or B.S. degree \$250.00/Mo., unless a B.A. or B.S. degree is one of the qualifying characteristics of the job classification.

A.A. or A.S. Degree \$125.00/Mo., unless an A.A. or A.S. degree is one of the qualifying characteristics of the job classification.

Employees that obtain 60 units after 07/01/2011 shall be eligible to receive \$125.00/mo.

Employees that obtained 60 or less units before 07/01/11 must obtain an A.A. or A.S. degree to be qualified for educational incentives.

Section 16. RANDOM DRUG AND ALCOHOL TESTING

OCEA members agree to the City of Oroville's Substance Abuse Policy and procedures for random drug/alcohol testing, administered by DATCO, as outlined in Exhibit "B". The City may utilize any or all of the following non-regulated testing options: Pre-Employment Drug/Alcohol, random drug/alcohol, reasonable suspicion drug/alcohol; follow-up drug/alcohol; Post-Accident drug/alcohol; return to duty drug/alcohol; and breath alcohol testing.

Section 17. VACATION POLICY

17.1 Every member who, on the most recent anniversary date of employment shall have been in the service of the City for a period of one (1) year or more shall be entitled to a vacation as follows:

Two (2) weeks (ten (10) working days) with pay if the member shall have been in service of the City for a period of one (1) year but less than five (5) years prior to such anniversary date.

Three (3) weeks (fifteen (15) working days) with pay if the member shall have been in the service of the City for a period of five (5) years but less than twelve (12) years prior to such anniversary date.

Upon completion of twelve (12) years of service with the City, the member shall be entitled to one (1) additional day of vacation with pay, and on each anniversary date of service thereafter to a maximum vacation benefit with pay of four (4) weeks (twenty (20) working days).

17.2 Unused Vacation

Unused vacation benefits may be accumulated from prior anniversary years; provided, however, the member shall cease to earn benefits that exceed two (2) times the individual member's annual earned vacation. Included in the calculation of the accrual ceiling are the vacation days earned as sick leave incentive as herein provided.

A member who has properly attempted to schedule vacation to avoid forfeiture that may be imposed by the accrual ceiling may petition the department head and City Administrator to carry over vacation in excess of the ceiling, but in no case shall the excess be subject to pay-off. The department head has the prerogative to assign the member time off for excess accrual.

17.3 For the purpose of this **Section 17, VACATION POLICY**, years of service shall mean years of unbroken seniority with the City which shall in no event be calculated from a date prior to the time the member actually commenced working for the City.

17.4 A member who on the most recent anniversary date has qualified for a vacation but whose employment is terminated prior to taking such vacation shall be entitled to pay in lieu thereof. The City shall not pay an amount in excess of the ceiling set forth in **Section 17, VACATION POLICY**, except as provided in Subsection 17.2.

17.5 A member who during an anniversary year is on leave of absence without pay for a period exceeding thirty (30) consecutive days shall fail to qualify for full vacation benefits but shall be entitled to prorated vacation benefits. A member whose employment is terminated prior to the completion of the anniversary year shall be entitled to prorated vacation. Vacation shall be prorated by dividing the straight time hours actually worked by 173.3, and then multiplying that factor by 1/12th the vacation the member would have earned had the anniversary year been fully worked.

17.6 Conversion of Excess Vacation Carryover Hours to Sick Leave

Whenever an employee's accumulation of vacation hours exceeds the maximum vacation carryover allowance due to furloughs or denial of time off requests by their supervisor or department head, the excess number of vacation hours may be converted to sick leave hours and credited to the employee's sick leave accumulation balance at the end of the fiscal year. This shall be done at the employee's written request and with notification to the City Administrator or his/her designee.

Section 18. HOLIDAYS – This section will remain the same unless all bargaining units agree to eliminate Lincoln's Birthday to receive New Year's Eve.

18.1 The following holidays shall be observed by the City:

- (1) New Year's Day
- (2) Martin Luther King Day
- (3) Lincoln's Birthday

- (4) President's Day
- (5) Memorial Day
- (6) Independence Day
- (7) Labor Day
- (8) Veteran's Day
- (9) Thanksgiving Day
- (10) The Day after Thanksgiving Day
- (11) Last Day before Christmas Day
- (12) Christmas Day

When a designated holiday falls on a Sunday, the following Monday will be observed as the paid holiday in lieu thereof. If the designated holiday falls on a Saturday, the preceding Friday will be observed as the paid holiday in lieu thereof.

- 18.2 Members shall be credited for each holiday by eight (8) hours of straight time pay.

Section 19. SICK LEAVE

- 19.1 Sick leave is a privilege which can only be allowed in case of actual sickness or injury by a member or an individual of their immediate family which compels a member to be absent from work. To qualify for sick leave, a member must notify his/her supervisor prior to the time set for beginning daily duties, in accordance with personnel procedures established by the City.
- 19.2 A member may be allowed a leave of absence from duty without loss of salary on account of sickness or injury. Sick leave with pay is earned at the rate of one (1) workday for each month of service beginning the first of the calendar month following regular probationary employment.
- 19.3 A member returning to duty after an absence of more than two (2) consecutive work days without loss of salary on account of sickness or injury shall provide his/her immediate supervisor, for filing in the member's personnel file, a doctor's certificate or personal affidavit verifying the employee was ill or injured.
- 19.4 A member whose condition is deemed to be permanent and stationary for either on/off duty injuries may, at the discretion of the City, be returned to work on a light or limited duty station for purposes of vocational and medical rehabilitation. Such action shall only be taken upon the recommendation of a physician, chosen and compensated by the City, and shall be for a fixed time. In the absence of clear and convincing evidence to the contrary, should the injury be job related and rehabilitation period fail and the member return to an industrial leave status, the initial trauma shall be considered in assessing the leave period. This section shall be implemented by an individual agreement between the City and the member and be signed off by the City's physician.
- 19.5 Sick leave shall not be granted to any member who is absent from duty due to illness or injury incurred while working for other than the City of Oroville.
- 19.6 Members shall accumulate unused sick leave without limitation as to a maximum number of days.
- 19.7 Subject to the same requirements of advance notice and approval, a unit member may be granted a maximum of three (3) days leave of absence in any calendar year without loss of pay in cases of personal necessity. Such leaves shall be deducted from the member's accumulated sick leave. Personal necessity includes but is not limited to an accident involving the member's person or property; appearance in court as a litigant or witness under official order. This leave specifically does not include any recreational use or any use related to present or prospective employment.

19.8 As of October 2, 2018, and upon retirement, Tier 1 employees with 5 or more years of service shall be able to convert 100% of his/her accumulated unused sick leave to purchase medical insurance, calculated by the hourly rate of pay, at the time of retirement, by the number of unused sick leave hours or members may convert accumulated unused sick leave for PERS service credit.

As of October 2, 2018, and upon retirement, Tier 1 employees with less than 5 years of service shall be able to convert up to a maximum of 240 hours of his/her accumulated unused sick leave to purchase medical insurance, calculated by the hourly rate of pay, at the time of retirement, by the number of unused sick leave or members may convert accumulated unused sick leave for PERS service credit.

As of October 2, 2018, any member hired on or after this date shall be a Tier 2 employee and shall not be able to convert any of his/her accumulated unused sick leave to purchase medical insurance. However, members hired on or after this date shall be able to convert accumulated unused sick leave for PERS service credit.

19.9 A member shall not be required to use any sick leave for any medical and/or dental appointment(s) but may use accumulated vacation time or compensating time off in lieu thereof.

19.10 Notwithstanding anything to the contrary set forth above in this section, the City agrees to amend its contract with PERS to allow sick leave conversion for PERS Retirement Credit. The members have the option of selecting the provisions set forth above in this section or may convert their unused sick leave for service credit upon retirement.

19.11 Except as provided in Subsections 19.10 and 19.12, a member shall not receive any cash payment from the City for unused sick leave upon voluntary or involuntary termination from employment.

Section 20. PERSONAL TIME OFF

Effective 07/01/2011 and on each July first during the term of this contract, all represented employees shall be credited with 24 hours of Personal Time Off (PTO). OCEA member may take PTO to coincide with the holiday season, November 1st through January 1st or other requested time which is approved by their department head. Additionally, OCEA members may be required by their department head to take PTO to coincide with the holiday season. PTO days must be used within the fiscal year they are credited, or the time will be lost.

Section 21. BEREAVEMENT LEAVE

Employees who have completed six (6) months of service are entitled to receive up to five (5) days bereavement leave which shall not be charged to the employee's sick leave, when compelled to be absent from duty by reason of death, or where death appears imminent of an immediate family member, as determined by the attending physician. An employee desiring such leave shall notify, in writing, the department head of the time of absence expected and the date of return to City service. Immediate family includes: spouse, natural, step or legal child or parent, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law or sister-in-law.

Section 22. MATERNITY LEAVE

Maternity leave shall be in accordance with applicable State and/or Federal law pursuant to California Government Code 19991.6 as currently in effect and/or amended.

Section 23. MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of State law. All members entitled to military leave shall give the City Administrator an opportunity within the limits of military regulations, to determine when such leave shall be taken.

Section 24. APPROVED LEAVE OF ABSENCE WITHOUT PAY

The City Administrator at his/her unrestricted discretion, may grant a regular or probationary member leave of absence without pay or seniority for not to exceed three (3) months. After three (3) months, the leave of absence may be extended up to twelve (12) months by the City Administrator. Longer leaves of absence shall be approved by the City Council. No such leave shall be granted except upon written request and approval in writing. Upon expiration of a regularly approved leave, or within a reasonable period of time after notice to return to duty, the member shall be reinstated in the position held at the time leave was granted. Failure on the part of a member on leave to report promptly at its expiration shall be deemed to be a resignation and said member shall be notified of such resignation in writing.

If the approved leave of absence is for more than thirty (30) days, the member:

- a) Shall not accrue seniority or employee benefits of any kind.
- b) Shall be responsible for the full payment of the monthly cost of any premiums for health, life or long-term disability insurance plans if the member desires to retain the coverage afforded by such plans.

Section 25. JURY DUTY

A member who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his/her supervisor, shall be entitled to be absent from his/her duties with the City during the period of such service or while necessarily being present in court as a result of such call. No deduction shall be made from the salary of a member while being interviewed for or while serving on jury duty. Jury fees collected shall be turned over to the Finance Department to help defray member's costs while on jury duty.

Section 26. BULLETIN BOARDS

A reasonable amount of space shall be provided on the bulletin board in the member's lounge, upon which the OCEA may post notices of meetings, elections, appointments, results of elections, recreational and social affairs, classes, seminars, and other matters pertaining to members and OCEA affairs.

Section 27. PAYROLL DEDUCTIONS

27.1 OCEA Dues

It is agreed that the City, during the terms of this Memorandum, shall deduct from each member's paycheck OCEA dues. The authorized OCEA dues amount will be remitted in one (1) check to the OCEA. The OCEA shall indemnify and hold the City harmless against any and all claims against the City as a result of implementation of this section.

Section 28. DISCIPLINE

28.1 Discipline

The City may discharge or suspend from employment any member who has completed the specified probationary period for cause. Examples of conduct or performance deficiencies that may warrant discipline include, but are not limited to:

- A. Misstatement of facts during the hiring process;
- B. Falsification of any entry on a City document (e.g., time card, expense report);
- C. Disclosure of confidential information;
- D. Insubordination or willful disobedience;
- E. Incompetence, inefficiency, or unsatisfactory job performance;

- F. Discriminatory, discourteous or unbecoming behavior;
- G. Theft, misuse, or unauthorized use or possession of City property;
- H. Dishonesty;
- I. Misconduct (e.g. any behavior that brings harm or discredit to the City;
- J. Being under the influence of illegal drugs or alcohol or possessing illegal drugs while on City property or on official business.
- K. Conviction of a felony or misdemeanor that involves moral turpitude, or any other convictions of or pleas of nolo contendere (no contest) or diversion for such offense, which adversely affects or brings discredit to the City;
- L. Excessive absence or tardiness;
- M. Absence without approved leave;
- N. Violation of City rule, policy, or procedure; (e.g. violence in the workplace policy, unlawful harassment, etc.)
- O. Soliciting outside work from personal gain during the conduct of City business; engaging in outside employment for any business under contract by the City; participating in any outside employment that adversely affects the employee's city work performance; and engaging in unauthorized outside employment;
- P. Loss or failure to maintain any license, certification, and/or clearance which is required as a minimum qualification or condition of employment for the employee's position.

In the event a member feels the discharge or suspension is not for cause, the OCEA shall have the right to appeal the case through the grievance procedure.

Probationary members may be discharged for any reason, which in the sole discretion of the City is just and sufficient and such discharge shall not be subject to appeal.

28.2 Removal of Disciplinary Documents and Submission of Written Rebuttals

- a) The parties agree that Letter of Instructions, Counseling Memorandums and/or Letter of Reprimands are the first steps of progressive discipline.
- b) Letter of Instructions, Counseling Memorandums and/or Letter of Reprimands, and any and all related documents/materials, at the written request of the employee, will be removed from any and all of the employees personnel file(s) after four (4) years have elapsed. In any event, all adverse materials will be considered null and void after such four (4) year period with the following exceptions:
 - 1. If further disciplinary action concerning any misconduct occurs within four (4) years from the initial disciplinary action, then there will be no requirement to remove the adverse material. If there is no further disciplinary action concerning any misconduct within four (4) years from the last occurrence, at the written request of the employee, all adverse materials including all related documents, and materials, will be removed from the employees file and considered null and void.
 - 2. This provision does not apply to disciplinary suspension, demotion, termination, workplace violence or sexual harassment, if an employee has been found to be in violation of these items.
- c) An employee has the right to provide a written rebuttal to any of the above within thirty (30) days of receipt of the documentation which will be attached to the original document and placed in the employees official personnel file(s) in the Personnel Department.

28.3 Presumption of Delivery

Any written notice shall be conclusively presumed delivered to the member on the date the written notice is personally served on the member. In the event that any notice is sent to a member by certified mail, return receipt requested, the notice shall be conclusively presumed delivered to the member on the date the receipt was signed. In the event the certified mail is refused, or in the event the member is absent without leave and no person at the address to which the certified mail is sent signs for such certified mail, then it shall be presumed that the notice was delivered as of the date the postal service returned the certified mail to the return address.

28.4 Departmental Action Prior to Imposition of Discipline

Except in cases of emergency, at least five (5) calendar days prior to the effective date of any disciplinary action against members with permanent status, the department head or person authorized by him/her shall give the member written notice of the proposed disciplinary action, reasons for such action, a copy of the charges and material upon which the action is based, and the right to respond either orally or in writing, or both, to a neutral department head agreed to by the City Administrator and the OCEA who shall serve as the Skelly Officer. The department head who shall be designated the Skelly Officer shall be determined on a rotating basis. The department head of the department in which the member works will be ineligible to hear the Skelly appeal.

28.5 Notice of Disciplinary Action

Whenever a disciplinary action is taken against a member, the member shall be notified in writing. Such notification shall include but is not limited to:

- a) A statement of the disciplinary action taken against the member.
- b) A summary of the facts upon which the disciplinary action is based.
- c) A statement advising the member that written notice of the disciplinary action is to be placed in the member's official personnel file and that the member shall have the right to appeal under the grievance procedure as set forth in this Memorandum.

The written notice of disciplinary action may be either personally served or mailed to the member by certified mail, return receipt requested, addressed to the last address which the member has furnished the City.

28.6 Appeals of Discipline for Permanent Members

A member may appeal a disciplinary action by filing a grievance at Step 3 of the grievance procedure within ten (10) days of receiving the notice of disciplinary action.

Section 29. GRIEVANCE AND ADVISORY ARBITRATION PROCEDURES

- 29.1 A grievance shall be defined as a dispute concerning the application of the City of Oroville Personnel Rules and Regulations: Rule 5, Section 5.5; Rule 11; and Rule 14, or a matter involving the interpretation of the alleged violation of any provisions of this Memorandum, other than appeals subject to the foregoing Section 27.6.
- 29.2 There shall be an earnest effort on the part of both parties to settle the grievance promptly through the steps listed below. Working days are considered to be Monday through Friday excluding City holidays.

Step 1: A member's grievance must be submitted to the immediate supervisor within fifteen (15) calendar days from the date the grievance is first known, or the grievance is waived. The immediate supervisor should give an answer to the member by the end of the fifth (5th)

calendar day following the presentation of the grievance. If the answer does not resolve the grievance or if an answer is not given, the member may proceed to Step 2.

Step 2: If the grievance is not resolved in Step 1, the OCEA Representative may, within five (5) calendar days after the written reply of Step 1, request a meeting with the department head or his/her designee. Such meeting shall be held at a mutually agreeable time to review, discuss and attempt to resolve the grievance. Such meeting will take place within ten (10) calendar days after the date of the written reply of Step 1.

Step 3: If the grievance is not resolved in Step 2, the OCEA Representative may, within five (5) calendar days after the Step 2 meeting, request a meeting with the City Administrator. Such meeting will be held at a mutually agreeable time to review, discuss and attempt to resolve the grievance. Such meeting will take place within ten (10) calendar days from the date of the Step 2 meeting.

Step 4: (a) If the grievance is not resolved in Step 3, Step 4 shall be referral by either the City or OCEA to advisory arbitration. Step 4 shall be taken within twenty (20) calendar days after the date of the written reply of Step 3.

(b) Upon receipt of request by the OCEA to submit a grievance to advisory arbitration, the City will set a day acceptable to both parties. The City and OCEA will choose from the State of California Mediation and Conciliation Service (SCM&CS) an arbitrator to become the individual to hear all cases involving the parties. The City and OCEA agree to act expeditiously in the selection of an arbitrator. If the OCEA and the City fail to reach mutual agreement on the selection of the arbitrator, each party shall, at a meeting of its representatives, alternately strike a name from the list of arbitrators provided by the SCM&CS. The first party to strike a name shall be determined by lot. The costs of advisory arbitration shall be borne equally by the City and the OCEA. The City and the Association shall pay the compensation and expenses for their respective witnesses. At the OCEA's request, the City shall release members from duty to participate in arbitration proceedings.

(c) The arbitrator shall hold such hearings and shall consider such evidence as the arbitrator deems necessary and proper. The first hearing shall be held as soon as is practicable for all parties involved. The decision of the arbitrator shall be final and binding on submit his/her findings and recommendations in writing to the City, the OCEA and the grievant, OCEA and the aggrieved member,

(d) City Council Review – The City Council may approve, modify or reverse the finding of the arbitrator if any, provided that such decision does not in any way add to, disregard, or modify any of the provisions of this Memorandum. Prior to modification or reversal of the arbitrator's findings and/or recommendations the grievant and/or his/her representative shall be allowed to be heard by the City Council and a modification or reversal is only done by a super majority vote of the City Council. Any decision rendered by the City Council shall be made within twenty-eight (28) calendar days of the receipt of request, unless extended by the City Council, but in no event more than 45 calendar days.

(de) Failure by either the City or the OCEA to meet any of the aforementioned time limits as set forth in Subsections 28.2(1), 28.2(2), 28.2(3), 28.2(4a), or 28.2(4b) will result in forfeiture by the failing party; except however, that the aforementioned time limits may be extended by mutual agreement. Grievances settled by forfeiture shall not bind either party to an interpretation of this Memorandum, nor shall such settlements be cited by either the City or the OCEA as evidence in the settlement of subsequent grievances.

(ef) Notwithstanding the aforementioned procedure, any individual member shall have the right to present grievances to the City and to have such grievances adjusted without the intervention of the OCEA, and be given the same opportunity to have the arbitrator hear and rule on grievances as prescribed in 4(b) and 4(c) provided that the adjustment shall not be inconsistent with the Memorandum and further provided that the OCEA's President shall be given an opportunity to be present at such adjustment.

29.3 Time limits as set forth above may be extended by mutual agreement between the City, the member or the OCEA, but neither the City, nor the OCEA member shall be required to agree except in the case of the temporary absence of the City Administrator. In such case, the time limits will commence with the first day of the return to work of the City Administrator. All meetings will be conducted in Oroville.

29.4 If the member or the OCEA does not submit the grievance to the next step or meet within the time limits specified, then the grievance will be considered automatically withdrawn. If, after Step 1, management does not reply in a timely manner or meet within the time limits specified, then the grievance may be processed by the member to the next higher level if so requested by the member or the OCEA.

Section 30. PEACEFUL PERFORMANCE

The parties to this Memorandum recognize and acknowledge that the services performed by the members covered by this Memorandum are essential to the public health, safety, and general welfare of the residents of this jurisdiction. OCEA agrees that under no circumstances during the term of this Agreement will the OCEA recommend, encourage, cause or permit its members to initiate, recognize, participate in, nor will any member take part in any strike, sit-down, stay-in, sick-out, slow-down, or picketing related to labor relations matters (hereinafter collectively referred to as work stoppages), in any office or department of this City, not to curtail any work or restrict any production, or interfere with any operation of the City. In the event of any such work stoppage by any member, the City shall not be required to negotiate on the merits of any dispute which may have given rise to such work stoppage until said stoppage has ceased.

Section 31. SAVINGS CLAUSE

It is understood that this Memorandum is subject to all applicable Federal and State Laws, City Ordinances and Regulations of the City Charter. Where there is a conflict between the City Charter, City Code and/or this Memorandum of Understanding, the City Charter shall control over the City Code and/or the Memorandum of Understanding, and the City Code shall control over the Memorandum of Understanding. If any part or provision of this Memorandum is in conflict or inconsistent with the above-entitled laws or regulations, or otherwise held to be invalid by a court of competent jurisdiction, such invalidation of such portion of the Memorandum shall not invalidate the remaining portions hereof, and they shall remain in full force and effect. In the event any portion of this Memorandum is in conflict with any non-negotiated policy, procedure, manual or directive, the provisions of this memorandum shall prevail.

The above section shall only apply to Laws, Ordinances, Regulations and Charter that are in place at the time of the ratification of this Memorandum. No new statutes shall impair an existing contract, unless otherwise required.

Section 32. NOTICE OF CHANGES, REVISIONS AND/OR NEW ITEMS

The City will provide the OCEA with ten (10) working days written notice of any changes, revisions or new items which effects any ordinance, rule, regulation, policy, procedure, or resolution directly relating to matters within the scope of representation proposed to be adopted by the City Council and shall be given the opportunity to meet and confer with the City prior to adoption.

Section 33. CODE OF ETHICS

Association members shall abide by the Code of Ethics attached hereto as Exhibit "C".

Section 34. TERM AND OPENING CLAUSE

This Memorandum of Understanding shall commence upon ratification and adoption and shall continue in full force and effect until ~~09/30/2019~~ 01/06/2023. This agreement shall remain in full force and effect until a new Agreement is signed by the parties herein.

With Respect to negotiable wages, hours and working conditions not covered by this Agreement, the City of Oroville agrees to make no changes without prior agreement with the Association.

This Memorandum recommended to the City Council of the City of Oroville on ~~October 2, 2018~~ January 7, 2020.

OCEA

CITY OF OROVILLE

Stephen Chioini, OCEA President

Linda L. DahlmeierCharles Reynolds, Mayor

Attested:

Bob JarvisBarbara Ramey, OCEA Representative

Joanna GutierrezBill LaGrone, Interim City Clerk

Approved as to Form:

Sharen Lindberg, Secretary

Scott E. Huber, City Attorney

EXHIBIT "A"

EXHIBIT "B"

CITY OF OROVILLE

Drug-Free Workplace Certification and Substance Abuse Policy Statement

As with any City policy, the **CITY OF OROVILLE** reserves the right to change, alter, amend, and interpret this policy without notice.

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from risks posed by the use of alcohol and controlled substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs. "The Drug-Free Workplace Act of 1990" (Government Code Section 8350 et seq.), requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to Federal authorities.

The **CITY OF OROVILLE** recognizes that the use of alcohol and/or controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective of the City to have a work force that is free from the influence of alcohol and controlled substances.

A. APPLICABILITY

This policy applies to all employees and contractors when they are on City property or when performing any City related business. It applies to off-site lunch periods and breaks when an employee is scheduled to return to work. Visitors, vendors, and contracted employees are governed by this policy while on City premises, and they will not be permitted to conduct business if found to be in violation of this policy.

A listing of the **CITY OF OROVILLE'S** employee function and/or position classifications can be found in Appendix "A" of this policy statement. An employee is considered to be performing a job function while actually performing duties related to the job function, preparing to perform such duties, on call or available for such duties as described in the job description, or immediately following the performance of such duties.

B. PROHIBITED SUBSTANCES

"Prohibited substances" addressed by this policy include the following:

Drugs:

Amphetamines, barbiturates, benzodiazepines, cocaine, marijuana, methadone, methaqualone, opiates, phencyclidine (PCP), and propoxyphene.

Alcohol:

This use of beverages or substances, including any medication, containing alcohol such that it is present in the body at a level in excess of that stated in Department of Transportation guidelines while actually performing, ready to perform, or immediately available to perform any City business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

C. PROHIBITED CONDUCT

Manufacture, Trafficking, Possession, and Use: Any employee engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol on City premises, in City vehicles or while conducting City business off the premises is absolutely prohibited. Violation will result in removal from duty and referral to an Employee Assistance Professional (EAP).

Impaired/Not Fit for Duty: Any employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from his/her job duties and be required to undergo a

reasonable suspicion controlled substance or alcohol test. Employees failing to pass this reasonable suspicion controlled substance or alcohol test shall remain off duty and be referred to an Employee Assistance Professional (EAP). A controlled substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the Department of Transportation guidelines.

Alcohol Use: No employee may report for duty or remain on duty when his/her ability to perform assigned functions are adversely affected by alcohol or when his/her alcohol concentration is 0.04 or greater. No employee shall use alcohol while on duty. No employee shall use alcohol within four hours of reporting for duty nor during hours that he/she is on call. Violation of this provision is prohibited and will subject the employee to removal from duty and referral to an Employee Assistance Professional (EAP).

Compliance with Testing Requirements: All employees are subject to controlled substance testing and alcohol testing. Any employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to an Employee Assistance Professional (EAP). Refusal to submit to a test can include an inability to provide a urine specimen without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

Treatment/Rehabilitation Program: An employee with a controlled substance and/or alcohol problem will be afforded an opportunity for treatment in accordance with the following provisions:

Positive Controlled Substance and/or Alcohol Test: A Rehabilitation Program is available for employees who have tested positive for a prohibited substance on a one-time basis only. Employee will be immediately terminated on the occurrence of a second verified positive test result. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. When recommended by the Employee Assistance Professional (EAP), participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and/or complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the EAP and agree to and sign a Return-To-Duty Agreement. The duration and frequency of follow-up testing will be determined by the EAP but will not be shorter than one year or longer than five years.

Voluntary Admittance: All employees who feel they have a problem with controlled substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to an Administrator or his/her designee for review. Program costs and subsequent controlled substance and/or alcohol testing costs will be paid by the employee. An employee failing to complete the program will be subject to termination from employment. An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up testing for 36 months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests within a 36-month period will result in termination from employment.

Participants in the rehabilitation program may use accumulated paid time off, vacation and floating holidays, if any.

D. NOTIFYING THE CITY OF CRIMINAL DRUG CONVICTION

Pursuant to the "Drug Free Workplace Act of 1990 any employee who fails to immediately notify the City of any criminal controlled substance statute conviction shall be subject to disciplinary action, up to and including termination of employment.

E. PROPER APPLICATION OF THE POLICY

The City is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the

policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

F. TESTING FOR PROHIBITED SUBSTANCES

Analytical urine controlled substance testing will be conducted as required under Department of Transportation guidelines. All employees shall be subject to testing prior to employment, randomly, for reasonable suspicion, and following an accident. In addition, all employees will be tested prior to returning to duty after failing a controlled substance test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five years, as determined by an Employee Assistance Professional (EAP). Employees shall also be subject to testing on randomly selected, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the Department of Transportation guidelines.

The controlled substances that will be tested for include alcohol, marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the controlled substance levels present are above the minimum thresholds established in the Department of Transportation guidelines.

Any employee who has a confirmed positive controlled substance test will be removed from his/her position, informed of educational and rehabilitation program available, and evaluated by an Employee Assistance Professional (EAP).

The City affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Employees may be tested under any of the following circumstances:

Pre-Employment Testing: All applicants shall undergo urine controlled substance testing prior to employment. Receipt of a satisfactory test result is required prior to employment and failure of a controlled substance test will disqualify the applicant from further consideration for employment. Pre-Employment testing requirements will be conducted in compliance with current law.

Reasonable Suspicion Testing: All employees will be subject to urine testing when there is a reason to believe that controlled substances or alcohol use is adversely affecting job performance while on duty. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances which are consistent with the effects of substance abuse. Examples of reasonable suspicion include, but are not limited to, the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Occurrence of a serious or potentially serious accident that may have been caused by human error while on duty.
4. Fights (to mean physical contact), assaults and flagrant disregard or violations of established safety, security, or other operation procedures.

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

Post-Accident Testing: Employees will be required to undergo controlled substance testing if they are involved in an accident with any City equipment or City vehicle or personal vehicle when employee is driving for work related business that results in any damage, injury or fatality. This includes all employees who are on duty and operating the equipment or vehicle and any other employee whose performance could have contributed to the injury or accident. A post-accident test will be conducted if an accident results in injuries: (1) which requires medical treatment; (2) where one or more pieces of equipment or vehicles incur damage that requires extensive repair or towing; or (3) when required by Workers' Compensation Guidelines.

Following an accident, the employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to termination. Post-accident testing of employees will include not only the operation personnel, but any other covered employees whose performance could have contributed to the accident.

Random Testing: Employees will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each employee will have an equal chance of being tested each time selections are made. Employees will be tested either just before departure, or during duty, or just after the employee has ceased performing his/her duty.

Return-to-Duty Testing: All employees who previously tested positive on a controlled substance test must test negative and be evaluated and released to duty by the Employee Assistance Professional (EAP) before returning to duty. Employees will be required to undergo unannounced follow-up controlled substance testing following returning to duty. The duration and frequency will be determined by the EAP. However, it shall not be less than 6 tests during the first 12 months or longer than 60 months in total, following return to duty.

Employee Requested Testing: Any employee who questions the result of a required controlled substance test under Department of Transportation guidelines may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the original sample. All costs for such testing are to be paid by the employee unless the second test invalidated the original test. The employee's request for a retest must be made to the MRO within 72 hours of notice of the initial test result. Requests after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

G. EMPLOYEE ASSESSMENT

Any employee who tests positive for the presence of controlled substances will be assessed by an Employee Assistance Professional (EAP). The EAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the EAP. The cost of any rehabilitation and subsequent controlled substance testing is borne by the employee and is on a one-time basis only. Employee will be immediately terminated on the occurrence of a second verified positive test result. Employees may use accumulated paid time off, vacation and floating holidays, if any, to participate in the prescribed rehabilitation program.

H. CONTACT PERSON

Any questions regarding this policy should contact the following City representative:

Name: Liz Ehrenstrom

Title: Human Resource Analyst II

Address: 1735 Montgomery St., Oroville, CA 95965

Telephone: (530) 538-2407

I. DEFINITIONS

ACCIDENT - means an unintended happening or mishap where there is loss of human life (regardless of fault), bodily injury, significant property damage, or an injury as defined by Workers' Compensation Guidelines.

ALCOHOL - means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol including methyl or isopropyl alcohol.

ALCOHOL USE - means consumption of any beverage, mixture, or preparation, including any medication containing ethyl alcohol. Since ingestion of a given amount of alcohol produces the same alcohol concentration in an individual whether the alcohol comes from a mixed drink or cough syrup, the Department of Transportation prohibits the use of any substance containing alcohol, such as prescription or over-the-counter medication or liquor-filled chocolates. Prescription medications containing alcohol may have a greater impairing affect due to the presence of other elements (e.g., antihistamines).

CHAIN OF CUSTODY - means the procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of collection to final disposition.

CITY - means the CITY OF OROVILLE.

CITY TIME - means any period of time in which the employee is actually performing, ready to perform, or immediately available to perform any job functions.

COLLECTION SITE - means a place designated by the City where individuals present themselves for the purpose of providing a specimen of either urine and/or breath.

CONFIRMATION TEST - means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (CG/MS) is the only authorized confirmation method of cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

CONTROLLED SUBSTANCE (DRUG) TEST - A method of detecting and measuring the presence of alcohol and other controlled substances, whether legal or illegal, in a person's body. A controlled substance test may be either an initial test or confirmation test. An initial controlled substance test is designed to identify specimens having concentrations of a particular class of drug above a specified concentration level. It eliminates negative specimens from further consideration.

Controlled substances will be tested under the Department of Health and Human Services guidelines. The primary (initial or screening) controlled substance test thresholds for a verified positive test result are those that are equal to or greater than:

Alcohol	0.02	grams
Amphetamines	1000	ng/ml
Barbiturates	300	ng/ml
Benzodiazepines	300	ng/ml
Cocaine Metabolites	300	ng/ml
Marijuana Metabolites	50	ng/ml
Methadone	300	ng/ml
Methaqualone	300	ng/ml
Opiates	2000	ng/ml
Phencyclidine	25	ng/ml
Propoxyphene	300	ng/ml

A confirmation drug testing is a second analytical procedure to detect the presence of a specific drug or its metabolite. The confirmation procedure is conducted independent of the initial test and uses a different technique and chemical principle in order to confirm reliability and accuracy. The confirmatory controlled substance test thresholds for a verified positive test result are those that are equal to or greater than:

Alcohol	0.04	grams
Amphetamines		
Amphetamine	500	ng/ml
Methamphetamine (1)	500	ng/ml
Barbiturates	200	ng/ml
Benzodiazepines	200	ng/ml
Cocaine Metabolites (2)	150	ng/ml
Marijuana Metabolite (THC) (3)	15	ng/ml
Methadone	200	ng/ml
Methaqualone	200	ng/ml
Opiates		
Morphine	2000	ng/ml
Codeine	2000	ng/ml
6-Acetylmorphine (4)	10	ng/ml
Phencyclidine	25	ng/ml
Propoxyphene	200	ng/ml

- (1) Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml
- (2) Benzoyllecgonine
- (3) Delta-9-tetrahydrocannabinol-9-carboxylic acid
- (4) Test for 6-Acetylmorphine when morphine concentration exceeds 2000 ng/ml

COVERED EMPLOYEE - means a person including a volunteer, applicant, or transferee, who performs a job function for the City.

DEPARTMENT OF TRANSPORTATION GUIDELINES - the procedures for controlled substance and alcohol testing (49 CFR Part 40) in all the transportation industries.

DRIVER - means any person who operates a motor vehicle. This includes full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

DRUG (CONTROLLED SUBSTANCE) METABOLITE - means the specific substance produced when the human body metabolizes (changes) a given drug (controlled substance) as it passes through the body and is excreted in urine.

EMPLOYEE ASSISTANCE PROFESSIONAL (EAP) - An employee assistance professional is an individual who assists the work organization, its employees and their family members with personal and behavioral problems including, but not limited to: health, marital, family, financial, alcohol, drug, legal emotional, stress, or other personal concerns which may adversely affect employee job performance and productivity.

EMPLOYEE ASSISTANCE PROGRAM - An employee assistance program (EAP) is a worksite based program designed to assist in the identification and resolution of productivity problems associated with employees impaired by personal concerns including, but not limited to: health, marital, family, financial, alcohol, drug, legal, emotional, stress, or other personal concerns which may adversely affect employee job performance.

The specific core activities of EAP's include:

1. Expert consultation and training to appropriate persons in the identification and

resolution of job-performance issues related to the aforementioned employee personal concerns, and confidential, appropriate and timely problem assessment services;

2. Referrals for appropriate diagnosis, treatment and assistance;
3. The formation of linkages between workplace and community resources that provide such services; and w follow-up services for employees who use those services.

EQUIPMENT - means any and all machinery, material, gear and the like in and/or around the City plants, on City premises, or on customer property and/or premises.

MEDICAL REVIEW OFFICER (MRO) - means a licensed physician responsible for analyzing laboratory results generated by an employer's controlled substance (drug) testing program. The MRO is knowledgeable about substance abuse disorders and has appropriate medical training to interpret and evaluate positive test results.

POST-ACCIDENT CONTROLLED SUBSTANCE TESTING - conducted after accidents on employees whose performance could have contributed to the accident. For drivers this is determined by a citation for a moving traffic violation and for all fatal accidents even if the driver is not cited for a moving traffic violation. See Accident.

PRE-EMPLOYMENT CONTROLLED SUBSTANCE TESTING -conducted before applicants are hired or after an offer to hire, but before actually performing any functions for the first time.

PROHIBITED DRUGS (CONTROLLED SUBSTANCES) - means Alcohol, Marijuana, Cocaine, Opiates, Amphetamines, or Phencyclidine.

PROHIBITED SUBSTANCES - means and is synonymous to drug abuse and/or alcohol misuse or abuse.

RANDOM CONTROLLED SUBSTANCE TESTING - conducted on a random unannounced basis just before, during or just after performance of job functions.

REASONABLE SUSPICION CONTROLLED SUBSTANCE TESTING - conducted when a trained supervisor observes behavior or appearance that is characteristic of alcohol misuse or controlled substance abuse.

REFUSE TO SUBMIT (TO A CONTROLLED SUBSTANCE TEST) - means that an employee fails to provide an adequate urine sample for testing without a valid medical explanation after that employee received notice of the requirement to be tested or engages in conduct that clearly obstructs the testing process (i.e., verbal declarations, obstructive behavior or physical absence resulting in the inability to conduct the test.)

REHABILITATION - The total process of restoring an employee to satisfactory work performance through constructive confrontation, referral to the EAP and participation in EAP recommendations such as education, treatment and/or support groups to resolve personal, physical or emotional/mental problems which contributed to job problems.

RETURN-TO-DUTY AND FOLLOW-UP CONTROLLED SUBSTANCE TESTING - conducted when an individual who has violated the prohibited alcohol or controlled substance conduct standards returns to performing safety sensitive-duties. Follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty upon the EAP recommendation.

RETURN-TO-DUTY AGREEMENT - means a document agreed to and signed by the employer, employee and the Employee Assistance Professional that outlines the terms and conditions under which the employee may return to duty after having had a verified positive controlled substance test result.

SCREENING (INITIAL) TEST - means an immunoassay screen to eliminate negative urine specimens from further consideration.

SUPERVISOR - means a person in authority who has had one hour of training on the signs and symptoms of alcohol abuse and an additional hour of training on the signs and symptoms of controlled substance abuse.

VEHICLE - means a bus, pickup truck, van, automobile or vessel used for transportation.

WORKERS' COMPENSATION GUIDELINES - means the procedures for determining the eligibility for workers' compensation benefits as determined by Labor Code and resulting case law.

APPENDIX B1

CITY OF OROVILLE

EMPLOYEE FUNCTION AND/OR POSITION CLASSIFICATIONS

The CITY OF OROVILLE, as of this date has established a compelling need for the following job descriptions. The compelling need is based on clear and factual vocational assessments which strongly indicate inappropriate behavior by those employees serving in any one, or any combination of the listed jobs, may result in harm to people, the environment, public or personal property, or undesired loss of capital or goods.

Job Type:	Compelling Need:
City Administrator	Drives on City Business and makes critical independent judgment decisions
Chief of Police	Drives on City Business and makes critical independent judgment decisions
Fire Chief	Drives on City Business and makes critical independent judgment decisions
Community Services Director	Drives on City Business and makes critical independent judgment decisions
Director of Parks and Trees	Drives on City Business and makes critical independent judgment decisions
Director of Finance	Drives on City Business and makes critical independent judgment decisions
Business Assis./Housing Deve. Director	Drives on City Business and makes critical independent judgment decisions

Job Type:	Compelling Need:
Deputy Fire Chief	Drives on City Business and makes critical independent judgment decisions
Police Lieutenant	Drives on City Business and makes critical independent judgment decisions
Project Manager/Sr. Civil Engineer	Drives on City Business and makes critical independent judgment decisions
Planning Manager	Drives on City Business and makes critical independent judgment decisions
Building Official/Fire Marshall	Drives on City Business and makes critical independent judgment decisions
Battalion Chief	Drives on City Business and makes critical independent judgment decisions
Management Analyst III	Drives on City Business and makes critical independent judgment decisions
Accounting Manager	Drives on City Business and makes critical independent judgment decisions
Public Works & Parks Oper. Manager	Drives on City Business and makes critical independent judgment decisions
Human Resource Manager	Drives on City Business and makes critical independent judgment decisions

Job Type:	Compelling Need:
Assistant Civil Engineer	May Drive on City Business.
Traffic Signal Technician/Electrician	May Drive on City Business.
Building/Fire Inspector	May Drive on City Business.
Housing Development & Building Maintenance Supervisor	May Drive on City Business.
Associate Planner	May Drive on City Business.
Redevelopment Agency Coordinator	May Drive on City Business.
Administrative/Program Analyst II	May Drive on City Business.
GIS Specialist	May Drive on City Business.
Engineering Assistant	May Drive on City Business.
Code Enforcement Specialist	May Drive on City Business.
Engineering Technician	May Drive on City Business.
Program Analyst I	May Drive on City Business.
Counter Technician	May Drive on City Business.
Assistant Planner	May Drive on City Business.
Cultural Facilities Curator	May Drive on City Business.
Technical Director/Facilities Operator	May Drive on City Business.
Accounting Technician	May Drive on City Business.
Administrative Assistant	May Drive on City Business.
Staff Assistant	May Drive on City Business.
Office/Field Aid	May Drive on City Business.
Cement Finisher	May Drive on City Business.

Job Type:	Compelling Need:
Police Sergeant	Drives on City Business and makes critical independent judgment decisions
Police Detective	Drives on City Business and makes critical independent judgment decisions
Police Officer	Drives on City Business and makes critical independent judgment decisions
Code Enforcement Specialist	Drives on City Business and makes critical independent judgment decisions
Dispatcher Supervisor	Makes critical independent judgment decisions
Police Administrative Assistant	Maintain a Drug-Free Workplace
Dispatcher	Makes critical independent judgment decisions
Community Services Officer	Drives on City Business and makes critical independent judgment decisions
Police Records Technician	Maintain a Drug-Free Workplace

Job Type:	Compelling Need:
Fire Captain	Drives on City Business and makes critical independent judgment decisions
Fire Engineer	Drives on City Business and makes critical independent judgment decisions
Fire Fighter	Drives on City Business and makes critical independent judgment decisions

PROCEDURES for the CITY OF OROVILLE

A. PROCEDURES - REASONABLE SUSPICION TESTING

1. An employee who may possibly be under the influence of alcohol and/or controlled substances is observed by a supervisor.
2. Any employee may identify someone suspected of alcohol and/or controlled substance to any supervisor. Employees should realize, however, that it is against City policy to make false or malicious statements about other employees and doing so can result in disciplinary action being taken against the offending employee. However, the supervisor must witness first hand the employee's signs and symptoms.
3. The supervisor is then obligated to ensure that the matter is immediately investigated. If possible, two supervisors determine (independently or together) that the employee in question may indeed be under the influence of alcohol and/or controlled substances.
4. When the supervisor(s) suspect and believe that the employee may be under the influence of alcohol and/or controlled substances, the employee is then immediately suspended from duty (with pay) and driven by City staff (or others designated) to the City specified collection site. Because of a testing facility requirement, the employee in question must show proof of identification, such as a photo driver's license or state-issued photo identification card.

Whenever practical, an Administrator should be notified in advance of the employee being taken to the collection site.

5. At the collection site, the employee will be required to submit a urine sample to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
6. The City will take precautions to prevent the employee being tested from going back to work and driving their own car home. Instead, the employee will be given assistance in obtaining a ride home from the collection site.
7. The employee whose controlled substance test results are verified negative will be reinstated. The employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Employee Assistance Professional who will assess the employee's condition and make a recommendation for treatment which, if accepted by the City, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

B. PROCEDURES - RANDOM TESTING

1. The Compliance Company notifies the supervisor to send the employee to the collection site for controlled substance testing.
2. The supervisor notifies the employee to go to the collection site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the collection site, the employee will be required to submit a urine sample to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. The employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Employee Assistance Professional who will assess the employee's condition and make a recommendation for treatment which, if accepted by the City, must be followed by

the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

C. PROCEDURES - POST ACCIDENT

1. The employee notifies a supervisor that an accident has occurred.
2. The supervisor determines that the circumstances of the accident warrant a post-accident test. Thereafter, the supervisor directs the employee to immediately go to the collection site for controlled substance testing. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the collection site, the employee will be required to submit a urine sample for controlled substance testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. An Administrator will be notified that an accident has occurred and that the employee was instructed to go to the collection site.
5. The employee whose controlled substance test results are verified negative will be reinstated. The employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a City specified outside Employee Assistance Professional who will assess the employee's condition and make a recommendation for treatment which, if accepted by the City, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

D. PROCEDURES -RETURN-TO-DUTY and FOLLOW-UP

1. The Compliance Company notifies the City to send the employee to the collection site for controlled substance testing.
2. The supervisor notifies the employee to immediately go to the collection site for controlled substance testing. Because of a testing facility requirement, the employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the collection site, the employee will be required to submit a urine sample for controlled substance testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. The employee whose confirmation test result is verified positive will be terminated.

E. PROCEDURES - CHAIN OF CUSTODY-CONTROLLED SUBSTANCE SPECIMENS

1. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
2. Urine will be in a tamper-resistant urine specimen container which will remain in full view of the employee until sealed and initialed.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance testing laboratory, the specimens will then be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.

4. A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with the specimen.

F. PROCEDURES-SPECIMEN COLLECTION OF STRANGE AND/OR RECOGNIZABLE SUBSTANCES

1. An employee is observed with a strange and/or unrecognizable substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and a witness.
3. An incident report is made and signed by both the supervisor and a witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

EXHIBIT “C”

Code of Ethics

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Responsibility

I understand that the community expects me to serve with dignity and respect, as well as be an agent of the democratic process.

I avoid actions that might cause the public to question my independent judgment.

I do not use my office or the resources of the city for personal or political gain.

I am a prudent steward of public resources and actively consider the impact of my decisions on the financial and social stability of the city and its citizens.

Fairness

I promote consistency, equity and non-discrimination in public agency decision-making.

I make decisions based on the merits of an issue, including research and facts.

I encourage diverse public engagement in our decision-making processes and support the public's right to know.

Respect

I treat my fellow city officials, staff, commission members and the public with patience, courtesy, civility, and respect, even when we disagree on what is best for the community and its citizens.

Honesty

I am honest with all elected officials, staff, commission members, boards, the public and others.

I am prepared to make decisions when necessary for the public's best interest, whether those decisions are popular or not.

I take responsibility for my actions, even when it is uncomfortable to do so.

