



OROVILLE CITY COUNCIL

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

January 21, 2020
REGULAR MEETING
CLOSED SESSION 3:30 PM
OPEN SESSION 5:30 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 54957(b), the Council will meet with the City Administrator and the Personnel Officer to consider the employment related to the following positions: Assistant Community Development Director.
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 54956.9(d)(2), the Council will meet with the City Administrator and City Attorney regarding potential exposure to litigation – two cases.
4. 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

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 - 6** 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 the January 7, 2020 Council Meeting

RECOMMENDATION

Approve the Minutes of the January 7, 2020 City Council Meeting

2. **REQUEST FOR EXTENSION OF AGREEMENT 3274-2 – A GRANT AGREEMENT WITH THE BIRDCAGE THEATRE**

The City Council may approve a recommendation from the Arts Commission to extend Agreement 3274-2 to May 31, 2020.

RECOMMENDATION

APPROVE the Arts Commission recommendation; and

ADOPT Resolution No. 8830 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDED GRANT AGREEMENT RELATING TO THE OROVILLE ARTS & DOWNTOWN BEAUTIFICATION PROJECTS (Agreement 3274-2)

3. **FEE WAIVER FOR FLAG POLE AND SHADE STRUCTURE FOR THE VETERANS MEMORIAL FOR ALL OF BUTTE COUNTY**

The Council will consider a fee waiver request in the amount of \$1,587.91 for the installation of a shade structure and a flag pole for the Veterans Memorial for all of Butte County located at 2310 Montgomery Street.

RECOMMENDATION

Staff recommends wavier of all permit and plan check fees for this project.

4. ESTABLISH BUDGET AND APPROPRIATION FOR SB2 PLANNING GRANT TO PROMOTE HOUSING DEVELOPMENT IN OROVILLE

Establish Budget and appropriation for SB2 Planning Grant to promote housing development in Oroville

RECOMMENDATION

Approve budget and appropriation for implementation of the awarded SB2 Planning Grant.

5. AMENDMENT OF ORIGINAL AGREEMENT TO EXTEND THE TERM OF THE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

The Council may consider an Amendment to the Agreement with the California Department of Parks and Recreation, for extra patrols in the State Parks Recreation area in and around Oroville, extending the terms through January 31, 2021.

RECOMMENDATION

Adopt Resolution No. 8831 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE PUBLIC SAFETY DIRECTOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH THE STATE DEPARTMENT OF PARKS AND RECREATION, EXTENDING THE TERM THROUGH JANUARY 31, 2021.

6. PURCHASE OF A STUMPEX STUMP GRINDER

The Council may consider authorizing staff to purchase a Stumpex Stump Grinder.

RECOMMENDATION

Authorize staff to purchase the Stumpex Stump Grinder

PUBLIC HEARINGS

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing.
- Staff presents and answers questions from Council
- The hearing is opened for public comment limited to two (2) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Speakers are requested to provide a speaker card to the City Clerk
- Public comment session is closed
- Council debate and action

7. PUBLIC HEARING TO RECEIVE INPUT REGARDING TRANSITION TO BY-DISTRICT ELECTIONS FOR COUNCIL MEMBERS

The Council will hold a public hearing to receive a presentation from Q2 Data & Research LLC and to receive input from the public regarding the transition to a by-district election process.

RECOMMENDATION

Open a public hearing to receive a presentation from Q2 Data & Research LLC and to receive input from the public

8. SECOND 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 second 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

Adopt Ordinance 1841 -- AN 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.

REGULAR BUSINESS

9. FISCAL YEAR UPDATE

The Council will hear an update of Council accomplishments and financial update for first half of fiscal year 2019/2020

RECOMMENDATION

Provide staff direction as to necessary staffing changes and return to Council with any necessary budget adjustments

REPORTS / DISCUSSIONS / CORRESPONDENCE

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

- i. Letter of Resignation - Parks Commissioner Scott Lawrence
- ii. FERC - Oroville Spillway Recovery and Forbestown Diversion Dam Letters
- iii. Butte County Planning Commission Public Hearing Notice

ADJOURN THE MEETING

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.



CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND CITY COUNCIL MEMBERS

FROM: BILL LAGRONE, CITY ADMINISTRATOR

RE: SECOND 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 21, 2020

SUMMARY

The Council will hold a public hearing to consider approving the second 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, the City Council and Planning Commission have met several times to consider enacting a ban on the sale of flavored tobacco products, as defined, within the City limits.

On January 7, 2020 the Council approved the First reading of the attached ordinance.

The attached draft ordinance for its second reading 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 ordinance would take effect 30 days after its signing.

FISCAL IMPACT

A likely loss of some sales tax revenues as per the prior analysis.

RECOMMENDATION

Adopt Ordinance 1841 -- AN 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.

ATTACHMENTS

1. Draft ordinance with a full ban on flavored tobacco products.
2. January 7, 2020 staff report on the topic.



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.”