

**PLANNING COMMISSION MEETING
THURSDAY, MAY 28, 2020**

DOCUMENTS RECEIVED AFTER PUBLISHED AGENDA

From: Aasim Ali
Sent: Thursday, May 28, 2020 2:51 PM
To: CityClerk
Subject: Tobacco Retail Sales Establishments regulations

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Members of the City of Hayward Planning Commission,

My name is Aasim Ali and I'm part of the ownership for Fast & Easy Mart, locates at 898 A st. I wanted to express my dissatisfaction with the new proposed tobacco regulations. We are have done our outmost to make sure that tobacco products stay out of the hands of the youth. Banning the sales of traditional flavored tobacco products could shift sales of these products from law abiding retailers to potentially illegal sources who don't care about the age of their buyers. Retailers are the first line of defense when it comes to preventing youth's consumption of tobacco products. We have worked hard to make our business a profitable one and ensure that we pay our fair share of taxes to the city. Why should we be punished for the actions of some bad actors. We pay taxes, create jobs, and support the local economy. This broad ban ban is excessive and goes too far. We faithfully abided by the first round of tobacco restrictions and instead of being reward for our spotless record we are being further punished. Thank you for your consideration.



May 28, 2020

Members of the Hayward Planning Commission
777 B Street,
Hayward, CA 94541

Dear Hayward Planning Commissioners:

The American Cancer Society Cancer Action Network's mission is to end suffering and death from cancer, and we are committed to advancing that mission in Hayward. To that end, we are deeply concerned about the availability of flavored tobacco products, which is contributing to the growing epidemic that is plaguing our communities here in California and nationwide. Hayward was a leader in adopting one of the first policies to restrict the sale of flavored tobacco and establish a minimum pack size for tobacco products. It's now time to bring that policy up to date and join your neighboring Bay Area jurisdictions with strong tobacco retail ordinances. Thank you for considering strong policies to protect the health of our youth.

We are writing to urge you to adopt a comprehensive tobacco retailer licensing (TRL) policy that includes fees that are sufficient for sustained enforcement and meaningful penalties, including suspension and eventual revocation of the license for retailers who have repeated violations. We ask that you include ending the sale of all flavored tobacco products at all stores, including flavored e-cigarettes and menthol cigarettes, establish a minimum pack size and minimum price for all tobacco products with no discounting or coupon redemption, end the sale of all tobacco products in pharmacies, allow no new tobacco retailers to locate near youth sensitive areas, and cap tobacco retailer licenses at the current number. Together, these provisions go far to protect the lives of our young people from the predatory marketing of the tobacco industry.

It is imperative to include menthol cigarettes and all other flavored tobacco products, including e-cigarettes in a policy that aims to address the epidemic of youth tobacco use. Four out of five youth who have ever used a tobacco product started with a flavored tobacco product, and when asked why, say because they come in flavors they like. A recent study concluded that youth who use e-cigarettes are more than 4 times as likely to try cigarettes and nearly three times as likely to smoke cigarettes than those youth who never tried e-cigarettes.

Eliminating the sale of flavored tobacco products, including menthol cigarettes, is also a social justice issue. Tobacco companies have aggressively marketed menthol products in communities of color, low income communities and LGBTQ communities. These are the same communities who already bear a greater burden of health disparities, and increasing tobacco use only increases the disparities among some of the most vulnerable in our communities.

In African American communities, the tobacco industry has aggressively marketed menthol flavored tobacco products to youth. Approximately 85% of African Americans who smoke use menthol cigarettes, and consequently, African American men have the highest death rates from lung cancer, when compared to other demographic groups. 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. Prohibiting the sale of all flavored

tobacco products, including menthol cigarettes, removes much of the allure of these products and is a key component of a comprehensive strategy to effectively help reduce tobacco initiation, and subsequent addiction.

Increasing the price of tobacco products reduces availability of these products to young people who are price sensitive, therefore establishing a minimum price for tobacco products adds a strong provision in any comprehensive tobacco retailer licensing policy. When tobacco products are made more expensive, fewer people use tobacco, fewer initiate tobacco use, and more people quit tobacco use. Prohibiting coupon redemption and discounting maintains the intent of the ordinance to keep tobacco prices higher and out of the hands of youth. We urge you to adopt a minimum price for tobacco products with no discounting or coupon redemption as part of your local policy.

We've learned from experience that exempting adult-only stores is problematic and weakens what could be a strong policy. Exemptions of some retailers complicates enforcement and creates resentment among retailers. Most importantly, if flavored tobacco products remain in the community, they will find their way into the hands of youth. The California Department of Public Health found that "vape" shops and tobacco stores had much higher violation rates for selling to youth when compared to every other category of tobacco retailer—30% and 36% respectively, compared to the state average of 19% for all types of tobacco retailers. All places where tobacco is sold, including adult-only tobacco shops, should be required to have a TRL with the same requirements as other tobacco retailers.

Tobacco-free pharmacies is a natural and necessary next step. Tobacco products, which are still the leading cause of preventable death in California, should not be sold in pharmacies where residents seek health promoting products. It is a contradiction for pharmacies to sell tobacco products alongside over-the-counter medications and prescription drugs. Youth often underestimate the dangers of tobacco use, and mistakenly believe that some of these products are harmless. Selling tobacco products alongside approved cessation products creates additional confusion and helps to diminish the perceived hazards of tobacco use.

By not allowing any new retailers to locate near youth centered areas, youth exposure to tobacco product marketing decreases. Research shows that when tobacco retailers are located near schools or homes youth experimentation with tobacco products goes up. The tobacco industry pours millions of dollars a day into in-store marketing because they know it works. When retailers are located near youth focused areas, youth are exposed to this marketing on a frequent basis. Prohibiting new retailers from locating within 1000-feet of a school, library, park or residential neighborhood will reduce youth exposure to tobacco industry marketing.

We encourage you to cap the total number of tobacco retailer licenses at the current number. A greater availability of tobacco products is associated with both youth and adult smoking. Tobacco retailer location and density also heavily contributes to social inequities, as retailers are more prevalent in lower-income areas and communities in which a greater percentage of residents identify as African American or Hispanic.

The Planning Commission needs to make the health of Hayward youth a priority and join our neighbors in the many communities throughout California who have adopted strong policies to end the sale of flavored tobacco products. We urge you to end the sale of all flavored tobacco products citywide, including menthol cigarettes, flavored e-cigarettes, and all other flavored tobacco products. We ask that you do this by requiring all tobacco retailers to obtain a tobacco retailer license that also includes

requirements to comply with a minimum price and minimum pack size for tobacco products, end the sale of all tobacco products in pharmacies, prohibits new tobacco retailers from locating within 1,000 feet of youth centered areas, and caps the number of tobacco retailer locations at the current number.

Sincerely,



Jen Grand-Lejano, MS
Government Relations Director, Northern California
American Cancer Society Cancer Action Network

From: Jen Grand-Lejano
Sent: Thursday, May 28, 2020 11:37 AM
To: Miriam Lens <Miriam.Lens@hayward-ca.gov>
Subject: Tonight's Flavored Tobacco discussion at Planning Commission
Importance: High

Please forward to Hayward Planning Commissioners

Dear Hayward Planning Commissioners:

Please see the attached letter urging you to recommend the strongest policy options available to protect Hayward youth from tobacco. We highly recommend ChangeLab Solutions for model language, which I believe has been furnished to the commission. Please put the health of youth over the profit of a few retailers and pass the strongest language possible to protect public health without any exemptions.

Jen Grand-Lejano

Northern California Government Relations Director
(510) 464.8107 |

American Cancer Society Cancer Action Network, Inc.
1001 Marina Village Parkway Suite 300
Alameda, CA 94501
fightcancer.org | 1.800.227.2345



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From: Ann Sekhon
Sent: Thursday, May 28, 2020 12:03 PM
To: CityClerk
Subject: flavored tobacco ban

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Dear City Council person

Im writing in regards to the tobacco ban that is being discussed.

Please work with retailers they are your front line people. Most retailers do not even know that you are discussing this issue. These bans have been being passed since 2015, who has done the study showing success of these bans. Prohibition does not work. Please work with your retailers. Age 21 to purchase tobacco, \$2.00 additional tax on tobacco, new technology, use of registers to scan id. etc. Please make note that these products can be bought on internet. More money needs to be spent on education.

Please take time to think about the above work with retailers, we do not want to sell to minors.

Ann Sekhon
President of San Francisco Monterey Bays Franchise Owners Association

ITEM 1 – PH 20-023

**PROPOSED AMENDMENT TO CHAPTER 10,
ARTICLE 1 (ZONING ORDINANCE) OF THE
HAYWARD MUNICIPAL CODE RELATED TO
RETAIL SALES OF TOBACCO AND TOBACCO
RELATED PRODUCTS**

PUBLIC COMMENTS



May 27, 2020

The Honorable Barbara Halliday

Mayor of Hayward
777 B Street
Hayward, California 94541

Dear Mayor Halliday and Members of the Hayward Planning Commission:

I am writing to you today on behalf of the American Petroleum and Convenience Store Association (APCA) representing owners of 1,400 businesses who are providing jobs, essential services, and products to Californians. Each day, 165 million people visit their favorite neighborhood market resulting in sales that allow the average convenience store to collect \$1.28 million in property, payroll, and sales taxes for local, state, and federal governments every year. Here in Hayward, our association members are investing in the community by supporting local charities, youth sports teams, and food drives.

The sale of tobacco products is a critical part of our retailers' business model. Tobacco sales drive ancillary sales of gas, food, and other products and keep us in business. If we lose the ability to sell tobacco products as the city proposes, our customers will go elsewhere. We oppose this sales ban as it eliminates an entire category of products from our shelves that adults in this country have the right to buy and enjoy.

Banning legal products at licensed retail locations undermines the city's and the state's tobacco retail licensing program, which has successfully limited youth access to tobacco, protected consumers from altered products, and given local government the enforcement tools they need. Moreover, local bans on tobacco products create an illicit market and an enormous profit margin driving illegal sales in those locales.

According to the most recent California Healthy Kids Survey (2017), youth usage rates of tobacco products are at historic lows. Cigarette smoking by 11th graders has declined to a low of 4.3% and only 1.7% of underage youth use smokeless tobacco products like moist snuff or chewing tobacco. We are fully opposed to any regulation on the sale of menthol or mint products within traditional tobacco categories. The ordinance you are proposing does not address youth usage, but it will result in the closures of essential neighborhood markets.

During the COVID-19 crisis, Americans have become acutely aware of what is considered necessary in their lives such as fresh and shelf stable food, hygiene items, and cleaning products. Within days of the declaration of the global pandemic, government officials deemed our nation's grocery stores and convenience stores "essential," one of only a handful of businesses allowed to operate during shelter in place orders. Because of our ability to stay in business, our gas stations and convenience stores have been able to save jobs and serve local communities during the crisis. In recent weeks, our members have fanned out across the state to deliver much-needed masks to coronavirus frontline workers and donate to nonprofits like Tri City Volunteer Food Pantry and Second Harvest Silicon Valley who are providing [healthy food](#) to Bay Area residents.

The current crisis is unprecedented, but California has seen its fair share of catastrophes. Whether it was the Camp Fire in 2018 or the Valley fire in 2015, our stores have always been there. We continued to provide fuel, bottled water, and other essential items to those who needed it most. If cities like Hayward continue to attack our ability to remain profitable, there will be a day when no one is left at neighborhood markets to provide much-needed supplies to meet critical needs.

We appreciate your consideration of our comments on this issue and urge you to oppose any ordinance that would restrict our ability to sell flavored tobacco products and devices in our stores to adults over the age of 21. We are responsible retailers who provide jobs and essential goods. We are an integral part of our cities and we are dependable community partners. Our city leaders should safeguard our ability to continue operating.

Should you have questions or require additional information, please do not hesitate to contact us at 916.627.1170.

Sincerely



Jivtesh Gill
Chairman, APCA
cc: City Council List-Mayor-Council@hayward-ca.gov

Attachment

C Store Decisions

<https://cstoredecisions.com/2020/05/15/american-petroleum-and-convenience-store-association-provides-masks-food-and-funds-to-frontline-workers/>

May 15, 2020

APCA Provides Masks, Food and Funds to Frontline Workers

The organization donated over \$20,000 in collective funds and distributed 12,000 masks to frontline workers, nonprofit staff and volunteers across California in response to the COVID-19 pandemic.

By Isabelle Gustafson | May 15, 2020



Pictured from Left to Right: Jaswinder Singh, Bay Area Chapter Member, APCA; Tracy Weatherby, Vice President of Strategy and Advocacy, Second Harvest of Silicon Valley; Sam Liccardo, Mayor, San Jose; Sanjiv Patel, National Board Member, APCA; Inderjit Sidhu, Bay Area Chapter Vice President, APCA; Khushvinder Singh, Bay Area Chapter President, APCA

Members of the American Petroleum and Convenience Store Association (APCA) delivered masks, food and donations to frontline workers, nonprofit staff and volunteers across California in response to the COVID-19 pandemic.

The industry group found that, besides health care workers, police officers and food bank staffers were in desperate need of gear to help prevent transmission of the virus.

“During our conversations with these organizations, we heard supplies of masks were extremely low or nonexistent. We recognized that we were in a unique position to identify alternative sources for some of these supplies, and we got to work,” said Jivtesh Gill, chairman, APCA. “Deemed ‘essential businesses’ by the Department of Homeland Security, our members’ 1,400 convenience stores and gas stations have remained open, and they’ve maintained access to suppliers. Despite catastrophically low fuel sales and an inside sales decline, our members

displayed their resilience and desire for community wellbeing and were able to distribute much-needed supplies to meet critical needs.”



The organization distributed 12,000 masks to the Catholic Charities Family Support Center in Santa Rosa, Sonoma County Sheriff’s Office, Solano County Emergency Services, Sacramento Police Department, Tri-City Food Pantry and Thrift Store in Fremont, Second Harvest Silicon Valley, and the Modesto Police Department.

Additionally, members of the association collected funds to donate \$12,500 to the Central California Food Bank in Fresno, \$5,000 to the Sacramento Food Bank and Family Services, \$5,000 to Second Harvest Food Bank serving San Joaquin and Stanislaus counties, and \$1,000 to the Twin Lakes Food Bank in Folsom.

Every day, 165 million people visit their favorite neighborhood market. This activity results in sales that allow the average store to collect \$1.28 million in taxes for local, state and federal governments every year.

“The COVID-19 crisis is unparalleled, but just like during the Camp Fire in 2018 and the Valley Fire in 2015, APCA members and our employees remain committed to serving our customers and our communities,” said Gill.







Pictured from Left to Right: Inderjit Sidhu, Bay Area Chapter Vice President, APCA; Sanjiv Patel, Bay Area Chapter Champion, National Board Founding Member, APCA; Faisal Gowani, Bay Area Chapter Ex-President, APCA; Taylor Johnson, Executive Director, Tri-City Volunteers Food Bank and Thrift Store; Phani Yadavalli, Bay Area Chapter Board Member, APCA; Raj Salwan, Council Member, City of Fremont

From: kewal apca.us

Sent: Wednesday, May 27, 2020 12:42 PM

To: List-Mayor-Council

Cc: Miriam Lens <Miriam.Lens@hayward-ca.gov>

Subject: Public Hearing on May 28th Agenda item No. 1 PH 20-023 (Ban on Tobacco Products)

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Good Afternoon, Mayor Halliday and Members of the Hayward Planning Commission -

Please find attached a letter from Jivtesh Gill, Chairman of the American Petroleum and Convenience Store Association (APCA), urging you to oppose the ban on sales of tobacco products.

Don't hesitate to reach out to me if you have any questions. Thanks.

With Warm Regards

Kewal Krishan

Executive Director

Dir. 916-627-1170



Email: admin@apca.us

Web: www.apca.us

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From: Balwinder Hothi
Sent: Thursday, May 28, 2020 2:40 PM
To: CityClerk
Subject: Please OPPOSE a Flavor and Menthol Ban

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Members of Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco. Small business are going through financial hard shop. By putting ban on flavored Tobacco it will make things worse and hard to servive at present situation. I will recommend, city should use tobacco related tax revenue to educate people and not by destroying small businesses.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products -- menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco -- from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,
Balwinder Hothi
Hayward, CA 94544-2831

From: Schakil Bafaiz
Sent: Thursday, May 28, 2020 12:43 PM
To: CityClerk
Subject: 5-28-20

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City of Hayward Planning Commission,

As the owner of Beacon 80-1 located on Harder Rd, I understand the risks that accompany running a small business. We rely heavily upon our community and its members as loyal customers who we know by name and order. In recent weeks, regardless of being considered an essential business, we are still struggling as more customers are staying at home.

Despite this economic downturn, we take pride in being an essential service and still show up to work every day and every night to provide food and household goods to our customers around the clock. California can be a challenging place to operate a business and, I fear we may never financially recover if the ban on menthol, mint, and wintergreen tobacco products if implemented in Hayward.

That's why I am asking you to support small businesses, convenience stores, and gas stations, like mine who provide an essential service to the community and do not pass PH 20-023 . If you have any questions or would like to speak further about this issue, please do not hesitate to contact me.

Thank you,

Schakil Bafaiz

Owner: Beacon 80-1

392 W Harder Rd

Hayward, CA



May 28, 2020

Hayward Planning Commission
777 B Street
Hayward, CA 94541

Reference: File Number PH 20-023

Dear members of the Hayward Planning Commission,

On behalf of the California Distributors Association (CDA), we respectfully request that the Commission reject the proposed ban on flavored tobacco products and restricted tobacco sales.

The California Distributors Association (CDA) exists to ensure a viable future for the distribution and manufacturing industries within the State of California. CDA's members include distributors servicing the grocery and convenience store industry throughout the state, as well our as associate members who include manufacturers, brokers and other associations who share our common interests. As an organization, we are committed to protecting the rights of our member businesses to manufacture, distribute and sell products legally in the State of California.

This ban, as proposed, would ban the sales of flavored tobacco, ban the sales of e-cigarette or vape devices, and prohibit the sale of defined products in pharmacies. While we respect the intentions of the commission in considering this ban we are confident that bans of this nature do more harm than good.

State law already strictly regulates the sale, marketing and distribution of tobacco products. A city by city patchwork of laws and regulations creates confusion for consumers and unnecessary expense and difficulties for our members. To be clear, local ordinance bans of tobacco products only serve to create problems, not solve them. Customers who are accustomed to shopping in their local convenience or grocery stores for legal tobacco products will simply go to a nearby town to buy the products they wish to purchase. Tobacco products make up approximately 34% of average in-store sales of our retail partners. Local bans do not reduce demand, they simply shift where those products are purchased. Unfortunately, as customers travel to buy tobacco products they often make fuel and other purchases simultaneously, a destructive loss of business for convenience stores and small grocers in the city of Hayward. Furthermore, with broad bans on flavored tobacco products come serious unintended consequences. When legal options to access products become scarce illicit sources often step into the void to meet demand, thus replacing the legally regulated market with illegal and untaxed sources.

For these reasons we request on behalf of our member companies, and the affiliated manufacturers, brokers and retailers that the commission reject the proposed ban on flavored tobacco products and e-cigarettes.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Loper", is written over a light blue horizontal line. Below the signature, the name "Dennis Loper" is printed in a black, sans-serif font.

Dennis Loper

Executive Director
California Distributors Association

From: James Allison <james@cfca.energy>
Sent: Thursday, May 28, 2020 12:13 PM
To: CityClerk
Subject: 5-28-2020 Planning Commission Meeting Agenda Item 1: File #: PH 20-023
Attachments: Hayward Letter.pdf

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

To the Hayward City Planning Commission,

In response to a proposal on today's agenda, the California Fuels & Convenience Alliance would like to take this opportunity to provide a written statement regarding the impacts of this proposal.

CFCA represents California's fuel retailers and over half of all gas stations and convenience stores. These businesses are largely small, family-owned stores. Our members would be disproportionately affected as a result of this proposal. The products named in your proposed ordinance make up a substantial revenue category for these stores, and their loss would be significantly impactful, even during normal circumstances. That said, they present markedly greater detriment under the current circumstances facing all businesses during the COVID-19 crisis.

These stores serve as essential businesses, as classified by Governor Newsom's Executive Order N-33-20. These businesses are doing everything they can during these turbulent times to help their communities and making available the goods families need, providing groceries, fuel, and other necessities that larger, overwhelmed grocers simply cannot. Moreover, especially during this critical situation, store owners and employees are disadvantaged from participating in the virtual civic process.

We implore you to dedicate this time to focusing on COVID-19 crisis relief and not enacting harmful policy towards small businesses.

Attached is a formal letter opposing the proposed ordinance. We greatly appreciate your consideration, and if you have any questions or concerns at all, please do not hesitate to reach out.

James Allison

Public Affairs

California Fuels & Convenience Alliance

2520 Venture Oaks Way, Suite 100 | Sacramento, CA 95833

Main: (916) 646-5999 ext 990 | Fax: (916) 646-5985 | www.cfca.energy



Statement of Confidentiality: The information in this electronic message and any attachments to this message are intended for the exclusive use of the addressee(s) and may contain confidential or privileged information. If you are not the intended recipient, please notify James Allison immediately at james@cfca.energy and destroy all copies of this message and any attachments. Thank you for your cooperation.



California Fuels and Convenience Alliance

2520 Venture Oaks Way, Suite 100

Sacramento, CA 95833

916.646.5999

May 26, 2020

Hayward Planning Commission
777 B Street
Hayward, CA 94541

Re: Proposed Ordinance to Ban the Sale of E-Cigarettes and Flavored Tobacco Products

To:

Commissioner Angela Andrews
Commissioner Daniel Goldstein
Commissioner Gary Patton
Commissioner Julie Roche
Commissioner Mariellen Faria
Commissioner Ray Bonilla Jr.
Commissioner Robert Stevens

The California Fuels and Convenience Alliance (CFCA) represents about 300 members, including nearly 90% of all the independent petroleum marketers in the state and more than one half of the state's 12,000 convenience retailers. Our members are small, family- and minority-owned businesses that provide services to nearly every family in California. Additionally, CFCA members fuel local governments, law enforcement, city and county fire departments, ambulances/emergency vehicles, school district bus fleets, construction firms, marinas, public and private transit companies, hospital emergency generators, trucking fleets, independent fuel retailers (small chains and mom-and-pop gas stations) and California agriculture, among many others. CFCA appreciates the opportunity to provide comment on this proposed ordinance.

The retailers represented by CFCA are mostly small, family, and/or immigrant owned businesses that would be crippled by regulations banning legally sold and manufactured products. They have been heavily involved in keeping age restricted products out of the hands of youth, including the recent change to California's age of sale from 18 to 21 years of age. Not only does our industry comply with federal and rapidly changing state and local laws, but they also conduct internal sting operations and build their own successful prevention policies, such as the WeCard Program. The ability to sell age restricted products, including tobacco, is part of the financial stability of these community convenience stores. Through the support of CFCA, the State of California recently passed a resolution declaring September "WeCard Awareness Month", in order to promote the safe and legal sale of age restricted products.

Sale of Current Stock

If this ordinance passes, it is imperative to allow enough time for retailers to sell their current stock, as most purchase products in bulk from distributors. **The City of Hayward should include a provision allowing retailers to sell the rest of the products they currently own or purchase prior to commencement of any ban ordinance in order to ease the burden of this ordinance.** San Francisco allowed for this in an ordinance placing similar restrictions on flavored products to assist the small business owners that will be affected.

Youth Sales

The illegal sale of tobacco and nicotine products is not a common occurrence at convenience stores. **In 2005, the California Tobacco Survey found that 82% of adolescent smokers obtained the products from “social sources”, mainly older friends and family members.**¹

Furthermore, 2016 research from the California Department of Public Health showing they are the number one retail source of youth tobacco. **Convenience stores were found to be much less likely to be a source of illegal sales, below the state average.**²

Identification Requirement and Online Sales

Given the rise of online purchases of all goods, and the government’s complicity in encouraging this - including age restricted products, the City should be more focused on the modern ways youth are obtaining these otherwise legal products. A short exploration of the ordering process for major manufacturers shows the ease with which youth can obtain these products. **Many companies do not require adult signatures for these products and they can be delivered to the user’s door with no identification verifying their legal age.**

Convenience stores and other brick-and-mortar locations are perfectly situated to adhere to federal, state, and local laws by checking a physical identification card and following the guidelines created and followed by the industry, such as the WeCard program. WeCard is a non-profit organization that provides training and materials such as age-of-purchase calendars that make it simple for an employee to ensure the purchaser is of legal age. They also have an e-cigarette specific webpage and materials.³ WeCard ensures the correct materials and standards are being used in those locations and provides an invaluable service to small businesses that sell age restricted products.

Harm Reduction through Vapes/ENDS

ENDS offer an option to adult consumers that can serve as a tool for smoking cessation and harm reduction that adds to the small list of methods available. Nicotine gum and patches are listed as smoking cessation methods, but they are not intended to get a user to zero nicotine. They are a way to alleviate the withdrawal symptoms that are commonly experienced by nicotine users moving away from nicotine products. ENDS are often used the same way, but also allow a wider variety of flavors and nicotine percentages, *including zero nicotine*. Allowing smokers to work their way to nicotine free solutions means they can reduce their risk of harm from nicotine. More flavor options and styles of ENDS increase the amount of consumer freedom and may lead to more traditional cigarette users to switch to a less harmful method.

In 2016, the Royal College of Physicians released a report concluding that e-cigarettes and ENDS are beneficial to public health as they decrease the rate of traditional cigarette use. **The study found that long term use of ENDS is unlikely to exceed 5% of the harm from traditional cigarettes. Furthermore, they found ENDS to not be a “gateway to smoking”, do not result in a “normalization of smoking”, and provide a first step to smoking cessation for many users.**⁴ Professor John Britton, chair of the Royal College of Physicians Tobacco Advisory Group, stated their report “lays to rest almost all of the concerns over these products, and concludes that, with sensible regulation, electronic cigarettes have the potential to make a major contribution towards preventing the premature death, disease, and social inequalities in health that smoking currently causes in the UK.” **Hayward will not be able to take advantage of these benefits if it continues down this path of overregulation that curtails healthier choices for adult users.**

Often overlooked in these studies and rulemakings is the importance of reducing the harm from second-hand and third-hand smoke. ENDS reduce the possibly harmful smoke that can be breathed in or contaminate surfaces indoors, reducing incidental risk to children, the elderly, the infirm, and those who do not use nicotine products. By promoting the use of ENDS over traditional cigarettes, we can protect the most vulnerable populations from the environmental

¹ <https://www.tobaccofreekids.org/assets/factsheets/0073.pdf>

²

<https://www.cdph.ca.gov/Programs/CCDPHP/DCDIC/CTCB/CDPH%20Document%20Library/ResearchandEvaluation/FactsandFigures/YouthTobaccoPurchaseSurveyYTPSHistoricalSalesChart2016.pdf>

³ <http://www.wecard.org/e-cig-and-vapor-central>

⁴ <https://www.rcplondon.ac.uk/news/promote-e-cigarettes-widely-substitute-smoking-says-new-rcp-report>

hazards associated with second-hand and third-hand smoke. **Research shows the biomarkers for second hand smoke are 5.7 times higher in homes using traditional cigarettes than those of ENDS users.**⁵

Furthermore, smoking amongst adults and youth is at an all-time low. Fourteen percent of adults smoke, down from 16% the year prior and teen smoking has sunk to 9%, a record low.⁶ The level of smoking in the United States continues to decline while health concerns such as obesity and heart disease continue to climb at an alarming rate. **The City of Hayward should focus on effective implementation of existing policies, supporting the businesses that work hard to keep age restricted products out of the wrong hands, and address the online sales that allow these products to be delivered directly to those under the legal age.**

Another study published by the New England Journal of Medicine in January 2019 shows e-cigarettes are more effective at helping smokers quit than other nicotine-replacement therapy. **Smokers in the study were twice as likely to quit using e-cigarettes as those using nicotine patches or gum.**ⁱ

Conclusion

CFCA urges the Hayward Planning Commission to examine the methods by which youth are obtaining these age restricted products, including cigarettes and vapes or ENDS. We encourage the City to work with the California Department of Public Health, the FDA, and others to do the necessary research in order to effectively limit youth access to tobacco while acknowledging the hard work by convenience stores and others to achieve the same goal. The fuels and convenience industry is willing to do its part to prevent youth access to age-restricted products, especially to find a manner to do it without the harm and negative impacts that ordinances such as this will bring onto small, family- and minority-owned businesses.

Please contact James Allison at james@cfca.energy or (916) 646-5999 with any further questions or comments.

⁷ <https://www.nejm.org/doi/full/10.1056/NEJMoa1808779>

⁵ <https://www.ncbi.nlm.nih.gov/pubmed/25262078>

⁶ <https://apnews.com/f24650f675704019b0093e3cce23d020>

May 27, 2020

City of Hayward
Planning Commission
777 B Street
Hayward, CA 94541

Dear Planning Commissioners:

I am writing to urge you to oppose a ban on the sale of flavored tobacco products to current retailers. We support the current City ordinance of the flavor ban for new tobacco retailers which was passed in 2014. The sale of flavored tobacco products is an important part of a retailer's business model. If this ban is adopted, customers will simply turn to ordering flavored tobacco products over the Internet or traveling a short distance to another city that allows the sale of all tobacco products.

These consumers will likely also shift their buying habits and purchase their gasoline, snacks and beverages at these other retail stores, further reducing sales for affected retailers. A reduction in sales of flavored tobacco products could cause retailers to lay off employees due to sales declines. This places an unnecessary and undue economic burden on retailers by government dictating what products can be sold in the local marketplace.

Those that support a flavor ban suggest that the mere existence of flavored tobacco products cause underage youth to begin or continue to use tobacco. However, there is no scientific basis for such a conclusion. Teenagers naturally want what adults have, whether that be tobacco products, alcohol, drugs, or other adult-age products. This desire is caused by peer pressure, experimentation, curiosity, assertion of independence, or any number of other reasons. Until these causes are addressed, banning the sale of flavored tobacco products will have little or no effect on youth usage of tobacco products.

For these reasons, I urge you to oppose the ban on the sale of flavored tobacco products. I thank you for your consideration.

Sincerely,



Dhruba Bashyal
Everest Smoke Shop
24703 Amador St
Hayward, CA 94544

From: Jaelee Miller
Sent: Thursday, May 28, 2020 2:56 PM
To: CityClerk
Subject: RE: Vape/Flavor Ban (I work in a smoke shop in Hayward)

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

My name is Jaelee K Miller & I work at a smoke shop in Hayward.

I would like to protesting the upcoming flavor ban.

*Most of our customers have switched from smoking cigarettes to vaping because it is healthier than smoking regular tobacco.

* People will have to resort to going back to smoking cigarettes.

*Banning all flavored tobacco products is not the solution to underage smoking. We card EVERYONE that we sell to, therefore, NEVER sell to anyone under 21.

*Banning these products will also force many shops like the one I work at to close, not being able to afford to pay their employees or stay open.

Thank you.

From: Jennifer Speck
Sent: Thursday, May 28, 2020 11:33 AM
To: Sara Buizer <Sara.Buizer@hayward-ca.gov>
Subject: Menthol Cigarettes

Good afternoon, Sara Buizer.

My name is Jennifer Speck, I would like to state that, "I prohibit the sale of all flavored tobacco products, and products manufactured with the intent of flavoring, with a 6 month period allowing retailers to clear existing stock of products."

With the following exemptions:

1. Combustible Menthol Cigarettes sold to patrons 21 years of age or older from retail stores selling tobacco specific products only.

Thank you,

Ms. Speck

From: massood habibian
Sent: Thursday, May 28, 2020 12:47 PM
To: CityClerk
Subject: Please OPPOSE a Flavor and Menthol Ban

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Members of Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products -- menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco -- from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,
massood habibian
Hayward, CA 94541-5040

From: Mathew Chacko
Sent: Thursday, May 28, 2020 12:00 PM
To: CityClerk <CityClerk@hayward-ca.gov>
Subject: Amendment to Chapter 10, Article 1.

May 27, 2020

City of Hayward

Planning Commission

777 B Street

Hayward, CA 94541

Dear Planning Commissioners:

I am writing to urge you to oppose a ban on the sale of flavored tobacco products to current retailers. We support the current City ordinance of the flavor ban for new tobacco retailers which was passed in 2014. The sale of flavored tobacco products is an important part of a retailer's business model. If this ban is adopted, customers will simply turn to ordering flavored tobacco products over the Internet or traveling a short distance to another city that allows the sale of all tobacco products.

These consumers will likely also shift their buying habits and purchase their gasoline, snacks and beverages at these other retail stores, further reducing sales for affected retailers. A reduction in sales of flavored tobacco products could cause retailers to lay off employees due to sales declines. This places an unnecessary and undue economic burden on retailers by government dictating what products can be sold in the local marketplace.

Those that support a flavor ban suggests that the mere existence of flavored tobacco products causes underage youth to begin or continue to use tobacco. However, there is no scientific basis for such a conclusion. Teenagers naturally want what adults have, whether that be tobacco products, alcohol, drugs, or other adult-age products. This desire is caused by peer pressure, experimentation, curiosity, the assertion of independence, or any number of other reasons. Until these causes are addressed, banning the sale of flavored tobacco products will have little or no effect on youth usage of tobacco products.

For these reasons, I urge you to oppose the ban on the sale of flavored tobacco products. I thank you for your consideration.

Thank You
Mathew Chacko

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From: Mohammed Malikzad
Sent: Thursday, May 28, 2020 2:55 PM
To: CityClerk
Subject: Please OPPOSE a Flavor and Menthol Ban

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Members of Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products -- menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco -- from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,
Mohammed Malikzad

Hayward, CA 94545-3541



May 28, 2020

Hayward Planning Commission

RE: Proposed Tobacco Regulation Amendments

Dear Hayward Planning Commissioners:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including several Hayward retail store members, I am writing to submit our comments and concerns regarding the proposed amendments to your tobacco regulations on the Planning Commissions May 28, 2020 agenda. These changes would prohibit the sale of all flavored tobacco products, including menthol cigarettes, flavored smokeless tobacco, flavored cigars, pipe tobacco, and all electronic smoking devices.

Pandemic Impact and Economic Crisis Will Be Magnified by a Flavored Tobacco Product Ban:

During the current emergency caused by the Coronavirus, we believe that now is not the appropriate time for a local government to consider an ordinance that would prohibit the sale of legal products. This is especially true when employees of retail stores that sell food, groceries and beverages have been designated by the U.S. Department of Homeland Security as “essential workers for critical infrastructure” and should remain working to provide basic necessities to the public, and that both the State of California and Alameda County have designated such stores as “essential businesses” and that the County recently extended its Stay at Home order through May.

According to our convenience store and service station members, their stores in Hayward have experienced a loss of 45% in gasoline sales and a decrease of up to 20% or more in grocery, snack, beverage, and tobacco product sales. These declines are significant because the average convenience store relies on tobacco product sales, including menthol cigarettes and other flavored tobacco products, for approximately 36% of in-store sales.

If flavored tobacco products are banned, hundreds of brands will be removed from store shelves and legal-age customers will drive to an adjacent suburb to buy not only their preferred tobacco products, but purchase gasoline, grocery items and beverages. The end result would be losses far greater than the current combined 65% declines in gasoline and other product sales. These retailers have done everything possible to survive the pandemic, but they will not survive an across-the-board ban on legal flavored tobacco products that results in even higher aggregate sales declines. Moreover, the closure of these stores will leave a deep void in the public’s need for retailers that sell gas, food, and beverages.

Traditional Flavored Tobacco Products Should be Removed from the Ordinance: We ask that the Planning Commission and the City Council give serious consideration to removing traditional flavored

tobacco products (menthol cigarettes, flavored smokeless products, pipe tobacco, and flavored cigars) from the proposed sales ban ordinance for the following reasons:

- Based on the following data from the California Healthy Kids Survey 2018-2019 of 11th graders in the Hayward Unified School District, these traditional tobacco products are not the issue because use rates of these products are at historic lows. Of Hayward 11th graders:
 - 93% *have never smoked a single cigarette*
 - 97% *have never tried smokeless tobacco*
 - 98% *had not smoked even one cigarette or used any smokeless tobacco in the last 30 days*
 - 87% *had not used an electronic cigarette in the last 30 days*

Use of cigars and pipe tobacco are not even reported in the Survey and presumably the question is no longer asked as the response numbers would be meaningless.

- Hayward retailers have a near perfect 96% compliance check passing by not selling tobacco to an underage minor record according to the outcome of 125 retail tobacco compliance checks conducted from 2015 to 2019 by the Food and Drug Administration (see accompanying FDA retail compliance check report).
- With retailers now being prohibited under a new federal law that went into effect in December of 2019 from selling tobacco products to anyone under 21, the new federal age 21 law should be allowed to work to further reduce underage access to and use of tobacco products.
- With the California legislature Senate Bill 793 that would ban flavored tobacco products statewide, consideration of a local flavored ban needs to be postponed to avoid putting Hayward's retailers at a severe disadvantage to nearby stores.

NATO and its Hayward retail members share everyone's interest in keeping tobacco products out of the hands of persons under 21 years old, but the ordinance overreaches because the main concern should be with the rise in underage vaping as shown by the California Health Kids Survey data.

Vaping Product Restrictions Need to be Explored with Retailers: While the vaping issue is being addressed by the Food and Drug Administration through a ban on those vaping products used most often by underage youth including flavored cartridge-type electronic nicotine devices (except tobacco and menthol flavors), we urge you to enter into a dialogue with NATO and retailers so that we can provide additional information and discuss various options for responding to the underage use of electronic cigarette products. The opportunity to work with the Planning Commission and the City Council to address this issue would be appreciated.

We urge the Hayward Planning Commission and City Council not to move forward with any attempt to impose a ban on all electronic cigarettes and flavored tobacco products, and to certainly not even consider making any such changes under the existing state of emergency we find ourselves.

Sincerely,

Thomas A. Briant

NATO Executive Director

From: Nick Patel
Sent: Thursday, May 28, 2020 2:26 PM
To: CityClerk
Subject: Tobacoo ordinance

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hello City Clerk, City of Hayward.

This is Niken Patel and I work and live in City of Hayward. I just heard that City of Hayward is trying to ban flavor tobacco and menthol cigarettes. I would like to strongly oppose to the proposed plan. This kind of ordinance has not helped any City and it just hurts businesses by creating unfair market.

I would like to show my strong opposition again.

Thank you,

NikenPatel
Hayward CA 94545

From: Phillip Sohn
Sent: Thursday, May 28, 2020 2:16 PM
To: CityClerk
Subject: Please OPPOSE a Flavor and Menthol Ban

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Members of Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products -- menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco -- from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,
Phillip Sohn

Hayward, CA 94545-3602

From: Amaya Wooding <Amaya@scommunityhealth.org>
Sent: Thursday, May 28, 2020 12:22 PM
To: CityClerk
Subject: Planning Commission Agenda Item #1

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Chair Bonilla and Commissioners:

Youth who are Black, otherwise of color, low-income, and/or LGBTQ+ are disproportionately affected by the proliferation of cheap flavored tobacco products at stores in Hayward.

Low-cost sweet or minty flavored little cigars and cigarettes have long been starter products for youth: 6 for 99-cent little cigars are affordable for all but the most price-sensitive young people. The tobacco industry spends billions of dollars annually to artificially reduce prices for these products. Recently available single-use electronic tobacco products such as Puff Bar have made e-cigarettes accessible to these populations as well. **Establishing a price floor** for tobacco products therefore works as a disincentive to tobacco use and a countermeasure for industry practices. The US Surgeon General estimates that increasing the average price of a pack of cigarettes to \$10 nationwide would reduce youth cigarette smoking to single digits.

Black folks in particular have long been targeted by the tobacco industry with **menthol tobacco products**. During the middle of the 20th century, tobacco companies used targeted marketing to turn mentholated cigarettes into the Black cigarette of choice. Menthol disguises the unpleasant taste of tobacco, making it easier to inhale cancer-causing smoke and addictive nicotine. Users of menthol products make fewer quit attempts and are less successful when they do. Menthol is not exclusively a Black issue, but also an LGBTQ+ issue, an Asian-American issue, and a Latinx issue. All of these populations are disproportionately affected by menthol use.

I hope you will make your decisions tonight with an eye for health equity.

Wishing wisdom and health,

Amaya Wooding (she/her)
Co-chair, **Proudly Against Tobacco**
The Bay Area's LGBTQ+ Tobacco Control Coalition
730 Polk Street, 3rd Floor
San Francisco, CA 94109

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From: Rima Khoury
Sent: Wednesday, May 27, 2020 2:21 PM
To: CityClerk <CityClerk@hayward-ca.gov>
Subject: Hayward Flavored Tobacco Ban - Request for Hookah Exemption

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Sir or madam,

Please read the following for agenda item # 1 for the May 28th, 2020 Hayward Planning Commission hearing. Thank you.

Before you inadvertently vote to ban the thousand year cultural tradition of hookah in the City of Hayward please understand the facts.

There is no teen hookah epidemic. The FDA and CDC reports have made it clear that hookah is not the problem with youth. There are no facts that support a ban on hookah.

Hookahs are not being confiscated in schools. Hookahs are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape. Hookahs take 25 – 30 minutes to set up and need hot coals, therefore it cannot be smoked during recess in the bathroom at school. Hookah's cost over \$200 for all the parts and accessories, making it out of reach for most kids.

Gov. Gavin Newsom stated in his executive order address on September 16, 2019 that "hookah is not the problem in classrooms".

Furthermore, FDA recently stated in their Guidance for the Industry dated January 2020 that although data shows that flavored tobacco entice youth, that such data does NOT appear to raise comparably urgent public health concerns with youth usage of hookah products because the lower prevalence of youth use of these products suggests that they do NOT appear to be as appealing to youth at this time. (Emphasis added)

Hookah is not the problem.

Yet hookah is becoming collateral damage in the war against vape. Hookah is not vape. Hookah has been practiced for over a thousand years by Arabs, Persians, Armenians, Turks and Indians, many of which have immigrated to America and still practice their cultural traditions. Hookah is the center piece of social gatherings and is often offered to guests as a sign of hospitality and respect.

Many immigrant small business owners have built their business doing what they know from their home country. Often times they work 20 hour days, seven days a week to support multiple generations of their family. Rather than banning hookah and crippling these immigrant small business owners, consider passing reasonable regulations that address youth usage and

access. Many of these business owners that have been operating legally for years would be happy to work with law makers to address youth access issues. These hookah lounge and retailer owners often have several years remaining on their leases and have personally guaranteed their leases. They will not only lose their business, but their homes and no longer be able to support their family and extended family.

A tobacco flavor ban is a ban on hookah because it only comes in flavors. Even hundreds of years ago hookah was made with molasses and honey.

The federal government has recently passed a 21 and over minimum for tobacco products across all fifty states. In addition, the FDA has passed an e-cigg ban on flavored cartridges. May 12, 2020 is the FDA deadline for all vape and hookah products to be accepted for FDA review, after which any products without FDA authorization will be unlawfully on the market and their products seized and injunctions restricting sales will be issued along with fines and penalties. The federal government is addressing the youth access issue and also providing legislation across the board, eliminating the patchwork of laws from city to city and closing loop holes for bad actors to skirt the law.

Please understand the facts before banning this rich cultural tradition.



RIMA KHOURY, ESQ.
GENERAL COUNSEL
(619) 331-3535 EXT. 723
FUMARI INC.

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From: Sanjiv Patel
Sent: Thursday, May 28, 2020 2:25 PM
To: CityClerk
Subject: Opposing to Amendment to Chapter 10, Article 1, Section 10-1.2780 of the Hayward Municipal Code Relating to Tobacco Retail Sales Establishment

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hi;

I am a retailer in Hayward selling tobacco products to adults.

I'd like to oppose to the proposed changes to the code as it is going to add hardship to already difficult business environment due to COVID 19. I'd request to table the topic for the time being and discuss once the situation comes back to "Normal".

Thanks.

Sanjiv Patel

From: PtIsmit B
Sent: Thursday, May 28, 2020 2:24 PM
To: CityClerk
Subject: Comment

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

There was not enough time to support method banned so I would request not to banned the methol or other flavor tobacco .

I would against that decision.

Thank you .

Best Regards,
Smit Patel



Hayward Police Department
Special Investigations Bureau
Vice/Intelligence Unit

July 24, 2018

SMOKEY'S SMOKE SHOP & GIFTS
25088 Hesperian Blvd
Hayward, CA 94545

Dear Sir or Madam,

On 07/09/2018, the Hayward Police Department conducted a minor decoy operation at various establishments throughout the City of Hayward. A decoy, under the age of 21, was sent into your establishment to purchase a tobacco product. Your business was **SUCCESSFUL** in preventing this activity.

I would like to thank you for a job well done.

Sincerely,

Detective Gabby Wright

Hayward Police Department
Special Investigations Bureau/Vice Intelligence Unit
300 West Winton Ave. Hayward CA. 94544



Hayward Police Department
Special Investigations Bureau
Vice/Intelligence Unit

June 13, 2018

SMOKEY'S SMOKE SHOP & GIFTS
25088 Hesperian Blvd
Hayward, CA 94545

Dear Sir or Madam,

On 06/11/2018, the Hayward Police Department conducted a minor decoy operation at various establishments throughout the City of Hayward. A decoy, under the age of 21, was sent into your establishment to purchase a tobacco product. Your business was **SUCCESSFUL** in preventing this activity.

I would like to thank you for a job well done.

Sincerely,

Detective Gabby Wright

Hayward Police Department
Special Investigations Bureau/Vice Intelligence Unit
300 West Winton Ave. Hayward CA. 94544



Hayward Police Department
Special Investigations Bureau
Vice/Intelligence Unit

June 30, 2017

SMOKEY'S SMOKE SHOP & GIFTS #998
25088 hesperian blvd
Hayward, Ca 94545

Dear Sir or Madam,

On 06/26/2017, the Hayward Police Department conducted a minor decoy operation at various establishments throughout the City of Hayward. A decoy, under the age of 21, was sent into your establishment to purchase a tobacco product. Your business was **SUCCESSFUL** in preventing this activity.

I would like to thank you for a job well done.

Sincerely,

Detective Gabby Wright

Hayward Police Department
Special Investigations Bureau/Vice Intelligence Unit
300 West Winton Ave. Hayward CA. 94544



CITY OF
HAYWARD
HEART OF THE BAY

April 28, 2015

Smokey's
25088 Hesperian Blvd
Hayward CA, 94544

Dear Sir or Madam:

On 04/25/2015, the Hayward Police Department conducted a minor decoy operation at various establishments throughout the City of Hayward. A decoy, under the age of 18, was sent into your establishment in an attempt to purchase TOBACCO products. Your business was **SUCCESSFUL** in preventing this activity.

I would like to thank you for a job well done.

Respectfully,

Kristina Ferreyra
Community Service Officer
Special Investigations-Vice/Intelligence Unit
Hayward Police Department

POLICE DEPARTMENT

300 WEST WINTON AVENUE, HAYWARD, CA 94544
TEL: 510/293-7000 • FAX: 510/293-7183 • TDD: 510/783-8884

Date: May 27th 2020

To: The City of Hayward City Council

From: Smoke Shop Tobacco Retailers

25088 Hesperian Blvd

Hayward CA 94545

To all City Council members:

We would respectfully like to voice our opinion in regards to the Tobacco flavor Ban being proposed. We are all running these businesses to make an income for ourselves and our employees. This is how we make a living and feed our families. The restrictions being proposed are way too extreme and will leave us with nothing to sell, hence forcing us to go out of business and close our doors for good.

The first thing we would like to discuss, is the short notice about the hearing and how it has to be done remotely. We received the hearing letter 5 days prior to the hearing date, which is a very short notice. This is extremely stressful for all business owners, due to the fact that we had to close our stores because of COVID19, and lost a huge amount of revenue. We would like the city council to consider delaying the hearing to a later date, when we can address this issue as a regular hearing in city Hall.

Regarding Menthol Cigarettes:

Menthol cigarettes have been in our society for decades. Totally banning these products will force them into the black market, which no one has control over. This of course hurts us retailers by not being able to sell them, but also loose a huge amount of tax revenue.

The areas that have banned menthol cigarettes already have this problem. Local drug dealers have added menthol cigarettes into their inventory along with everything illegal they sell, as it becomes a high demand item to which they can charge a premium on, due to it not being available at a local store. The underground black market has no age verification concept nor need to pay any taxes on their sales. Menthol cigarettes are easily available by just traveling out of the area; or even as some people have mentioned about, having them shipped to them from other states where they are way cheaper. Hence, increasing their profits on the streets.

We would like to request that another solution be made to address this problem. One solution that other cities have done, is to restrict the sale of menthol cigarettes to Tobacco stores which specialize in selling smoking products alone. This may be an easier way for law enforcement to control the sale to underage smokers, as it reduces the number of outlets that provide these products.

I believe that this issue just needs to be given more time, as there is already talk about new laws being made at a State/National level. For the City of Hayward to ban everything ahead of time would not make any sense.

Regarding Vape Pod & Cartridge Systems:

In January 2020 the FDA and the government outlawed the sale of all flavored pod/cartridge systems across the whole United States. This includes JUUL products which were the most popular among teen vapers. They have only given an exemption to tobacco flavor and menthol flavor, which after their research they found to be not appealing to underage users. After all their research they found that flavors such as regular tobacco and menthol were only being consumed by adults, which were using them as a replacement to traditional cigarettes. Cigarettes are way more harmful in any way we look at them. Adults have been able to successfully quit smoking cigarettes using these products. We have customers that have been recommended by their doctors to quit smoking cigarettes, and use such devices as a replacement.

These pod/cartridge systems are being regulated at a national level. There is also a tax increase coming in regards to these items, which will increase their price by \$2 each pod, hence producing much more tax revenue at all levels.

Regarding Disposable E-Cigarettes:

As of today, disposable E-cigarettes are still on the market. The FDA and the Government are already in the process of making these products illegal. They were supposed to become illegal in May 2020, but extended the date through August 2020, due to COVID-19. As far as these disposable e-cigs are concerned, they will be outlawed in August solving the problem we have at a national level. They would already have been banned if it were not for COVID-19. After August the only E-Cigarette that can be sold nationally, will be the ones that have already filed and been approved by the FDA. Once again, this issue needs a little more time, as there are already regulations and laws coming at a National level. Once again, it would not make sense for us, the City of Hayward to just ban everything when we have National regulations being developed to solve our current problem.

Another issue that we here in the United States have, is the sale of these e-cigarettes from China. There are websites such as dhgate and Alibaba that market these items from China to the whole United States regardless of age. They sell fake/replica products at a much cheaper price than we store owners even buy at. Tobacco retailers provide authentic merchandise which is tax paid and bought from a legitimate supplier. We retailers have and maintain invoices from all suppliers and are inspected by the state board, to ensure authentic and tax paid merchandise.

Underage kids have access to these websites and are able to order these items in large quantities. They have created a business out of it and are making higher profits than us retailers, which is all non-tax paid and with no age verification. Us retailers are hearing about people selling these items on

the streets and out of their cars. We believe that it is unfair to get blamed for something that we are not responsible for.

This problem is already being addressed nationwide. Hayward is not the only city that is having this underage vaping issue, it is a problem in all 50 states! In August when the FDA makes E-Cigarettes illegal, that will make U.S. customs stop the shipments from China, which will be more effective to solving our problem than just banning everything and putting us retailers out of business.

Regarding Vapes and E-liquids

According to the study done at the time of pod/cartridge system banning in January 2020, vaporizers and e-liquids were the least desired products by teenage users. This was due to the fact that they are much larger and costly devices which cannot be easily hidden from parents and teachers. These devices are more popular amongst older people and real smokers which are using them to stop smoking traditional cigarettes. That is the reason actual vapes and e-liquids have been allowed to be sold across the US and only disposable and pod/cartridge systems are being taken off the market. The devices being found in possession of underage users are disposable and small easy to hide devices, not actual vaporizers! The products found in schools are disposable e-cigs and pod/cartridge-based devices which are in the process of being outlawed nationwide; not vaporizers and e-liquids!

All e-liquids companies in the US are having to file their products with the FDA as of August 2020. The products will be tested and approved only if they pass FDA standards. Like I have mentioned before, we need to give this issue more time as the FDA and US government is already creating laws and regulations. It does not make sense for the City of Hayward to just Bann everything. We should wait and follow the regulations that are made for the whole US or the State of California.

The issues and problems brought up are everywhere, not only in Hayward! Banning Vaping overall is not the right thing to do. We should give it some time and adopt the same rules and regulations State/Nationwide.

Regarding Hookah

Hookah tobacco has nothing to do with any of the problems or issues we are addressing! Hookah has been around forever. It has nothing to do with underage smoking or vaping. We have been selling hookah tobacco nearly 10 years and have zero interest from underage smokers. Hookah tobacco customers are all adults and should be exempt from these restrictions. We would like an exemption especially for tobacco stores.

How it will affect Smoke Shops (Specialized Tobacco Stores)

Since Smoke Shops are specialized in smoking products, we will be hit the most. We will have to layoff our employees due to loss in revenue, possible being forced to close out doors for good. This is extremely difficult to deal with due to the fact we all have long term leases. Gas stations have gas to sell,

liquor stores have alcohol to sell, but us Smoke shops only have smoking and vaping products. Without these items to sell it is impossible for us to sustain.

Similar to other cities, smoke shops should be exempt for not all restrictions but some restrictions. Such as the sale of Hookah products. Also the sale of FDA approved vape products. The City of San Francisco, the first city in the bay area to come with any restrictions but still allows Smoke Shops to sell vaporizers and e-liquids. The city of Oakland still allows Smoke Shop to sell vapor products.

To completely restrict the vaping industry for Smoke Shops is a terrible idea and we should be exempt. As I have mentioned before, gas stations and liquor stores are part of another industry and can still maintain without these products. Smoke shops will have to go out of business! Please help us stay alive. We accept part of the regulations, but not everything that has been proposed.

In my view the City of Hayward is already declining in the number of smoke related businesses. There used to be a few hookah lounges that have disappeared. We had a few vapor lounges where people would just hang out and vape and those are all gone. I know about a few smoke shops that have closed. I believe the largest amount of tobacco retailers are in Hayward are in the liquor store category (we do have a huge amount of liquor stores in hayward).

The City of Hayward has been doing a great job at enforcement as we get inspected by sting operations a few times a year. The age limit for tobacco use has been pushed up to 21 years old which has helped the problem. Our City was the first in the whole state to implement a Tobacco Retailers License and eliminate the sale of single and under five pack cigar sales. We are already doing a great job! We should also be a City that make these regulations in a proper way where its not putting us all out of business. We should be the first to adopt ID verification systems (this is also in the works with the FDA to require alcohol and tobacco sales to be done by scanning identifications.)

Underage users are attracted to everything they are restricted from! This includes alcohol, tobacco, cannabis and other drugs available to them. Alcohol and cannabis are available in many flavors which also appeal to underage users and are still easily available. In most cases there is an adult (older sibling or friend) that will purchase these items for them. I have even experienced a lot of shoulder tapping (asking someone, or paying someone many times a homeless person) when I go to a liquor/convenience store myself. These issues are all across the US, not only in our city and have been a problem for decades.

I would like to conclude my appeal letter by asking that some reasonable regulations to be made. Please help us stay in business. I do support regulation as it is needed, but some reasonable regulations in which we can all sustain and continue to make income for our employees and ourselves. We have already experienced a huge loss due to COVID19 and are just trying to recover ourselves. Hayward has always been a Pro business city and let's keep it that way. We already have lots of stores closing, there are so many vacant buildings, too many bankruptcies and people going out of business!

Thank you so much for reading my appeal, I appreciate the City Council in advance and I believe they will make the right move!

Suggestions

- To exempt Tobacco stores from some restrictions to allow them to stay open for business. It would be easier to regulate the few number of tobacco stores in the city instead of the crazy amount of liquor stores in Hayward. (As other cities have done)
- Have all tobacco stores install ID readers to scan customer identification to eliminate 100% of any underage sales (including fake ID being used).
- To wait and give this regulation some time in order for state and national regulations to be made which are already in the works.
- Eliminate e-cigarettes (which will be done nationwide in August) but allow the sale of vaporizers and FDA approved e-liquids in Tobacco stores only (which are adult stores, not like gas stations and liquor stores/grocery where underage can walk in to buy gas or food items).
- Exempt Hookah flavors for tobacco stores as they are not part of the problem and 100% of their customers are adults.

Regards to all my City Council Members

Haroon Ahmed

Smokeys Smoke Shop

25088 Hesperian Blvd

Hayward CA 94545

From: Sukhjot Sandhu
Sent: Thursday, May 28, 2020 12:08 PM
To: CityClerk
Subject: Please OPPOSE a Flavor and Menthol Ban

CAUTION: This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Members of Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community. We have been operating since 1994, and we are a staple in the local community. The ban of traditional tobacco products would have severe effects on our business.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products -- menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco -- from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,
Sukhjot Sandhu
28260 Hesperian Blvd
Hayward, CA 94545-4851



The African American Tobacco Control Leadership Council

May 27, 2020

To: Hayward Planning Commission

From: The African American Tobacco Control Leadership Council

Re: End the Menthol Exemption that Allows the Sale of Menthol Products in Hayward, Especially in the Midst of the COVID-19 Pandemic!

The African American Tobacco Control Leadership Council (AATCLC) implores the Hayward Planning Commission to recommend to the Hayward City Council that they end the exemption that allows the sale of menthol tobacco products in the city of Hayward. We were pleased to testify back in March on this issue at one of your meetings. We are pleased to see that the proposed new ordinance would remove the exemption. This is no minor matter. We already know that 80% of youth's 12-17 start smoking using menthol and flavored cigarettes (Ambrose et al., 2015). Indeed, in the midst of the COVID-19 pandemic, this is precisely the time to put strong public health measures in place.

Make no mistake about it, COVID-19 is not an equal opportunity killer: Blacks folks are dying disproportionately of this disease all around the country. We know that smoking weakens the immune system of the lungs, the very site that the coronavirus thrives on. And we already know that menthol cigarettes and flavored little cigars are the vectors for death and disease in the Black, Brown and other poor communities of color. And as if that adds insult to injury, an article in the European Respiratory Journal, shows that current smokers and people with chronic obstructive pulmonary disease (COPD) have more receptor cells in their lungs that attract the coronavirus (https://www.eurekalert.org/pub_releases/2020-04/elf-hlo040720.php). And yes, African Americans have disproportionately high rates of COPD! The Council needs to take every step that it can to protect the citizens of Hayward, especially its poor communities of color. By preventing the tobacco industry from targeting and hooking youth and low-income communities to menthol flavored tobacco products, we can also help reduce potential vulnerability of these communities to COVID-19 and improve the health of all communities in Hayward.

Some have suggested that there should be adult venue stores carve outs to sell menthol cigarettes and flavored little cigars. Well, the Oakland experience shows that that is precisely what shouldn't be done. When Oakland passed its adult only carve out in 2017, there were only 5 adult-only tobacco stores; today there are over 50! Luckily, Oakland ended this carve out earlier this month voting unanimously to remove the exemption, thus prohibiting the sale of menthol

cigarettes, flavored little cigars and flavored e-juices city-wide. Hayward does not need to go down that mud-hole.

We should note that some groups, spurred on and funded by the tobacco industry, have been spreading falsehoods, stating that prohibiting the sale of menthol and flavored tobacco products, including flavored e-juices will lead to the “criminalization” of particularly young Black men. Nothing could be further from the truth. The ordinances adopted around the country **prohibit the sale** of flavored products, they would **not prohibit the possession** of these products. Hence, we are calling on the Hayward Planning Commission to recommend to the Hayward City Council that they join their sister cities of San Francisco, Berkeley, Richmond, Alameda and others to prohibit the sale of menthol and all flavored tobacco products, with no exemptions. Nearly 60 cities around the Country have adopted menthol prohibitions: <https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf>

This is precisely the time to adopt strong tobacco control measures that can protect our families. We already know that menthol and flavors “makes the poison go down easier.” Let’s not now allow menthol to make covid-19 go down easier too! The Commission and the Council need to put the health of its residents in the forefront of their thoughts, not the interests of tobacco and vaping industry and their surrogates. This is not the time for half-steps, like continuing to allow these products to be sold in adult-only venues, rather it is time to take a stand for the public’s health and get menthol and flavored tobacco products, the vector for the disease, death and coronavirus, straight out of Hayward!

We are all counting on you!

Sincerely,



Phillip Gardiner, Dr.P.H. Co-Chair AATCLC www.savingblacklives.org



Carol McGruder, Co-Chair AATCLC



Valerie Yerger, N.D., Co-Chair AATCLC

From: Phillip Gardiner

Sent: Wednesday, May 27, 2020 12:52 PM

To: CityClerk <CityClerk@hayward-ca.gov>; Sara Buizer <Sara.Buizer@hayward-ca.gov>; Robert Goldassio <Robert.Goldassio@hayward-ca.gov>

Cc: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>; Carol McGruder < Dr. Val < Phillip Gardiner < Tracy Brown <

Subject: End the Menthol Exemption in the City of Hayward

Planning Commission Members,

Please see the attached letter from the African American Tobacco control Leadership Council (AATCLC) calling on the Planning Commission to recommend to the Hayward City Council that it drop its menthol exemption.

In the midst of the COVID-19 pandemic strong public health ordinances are a great way to fight the virus, especially a virus that disproportionately attacks the lungs of smokers.

We are all counting on you!

Phillip Gardiner, Dr. P.H.

Co-Chair African American Tobacco Control Leadership Council.



May 27, 2020

Mayor Barbara Halliday
Councilmember Sara Lamnin
Councilmember Elisa Márquez
Councilmember Al Mendall
Councilmember Mark Salinas
Councilmember Aisha Wahab
Councilmember Francisco Zermeño
Hayward City Hall
777 B St.
Hayward, CA 94541-5007
Via e-mail: List-Mayor-Council@hayward-ca.gov

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance

Dear Mayor Halliday and Councilmembers:

Tiburcio Vasquez Health Center, Inc, supports strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth and low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

Tiburcio Vasquez Health Center: Every day, we provide hundreds of patients with primary medical care, dental services, wellness programs, and more. Tiburcio Vasquez has served low-income, high-risk individuals and families since 1971. Last year, we touched the lives of more than 27,000 patients. The vast majority were poor and economically disadvantaged. Three out of every four of our patients are Hispanic/Latino; about half of our patients are children aged 0-18. We are proud to sponsor, promote, and provide comprehensive health services to meet the needs of the individuals and families we serve According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11th graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11th graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11th graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11th graders have used electronic cigarettes

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 95% of African American teen smokers, 61% of Asian teen smokers, and 58% of Hispanic teen smokers report smoking menthol-flavored cigarettes.¹ Flavors including menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of smokers. Four out of 5 kids who have used tobacco started with a flavored product. Youth who smoke menthol are more likely to become addicted to nicotine than their peers that smoke non-menthol. As a result, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.²

When tobacco is cheap and pack-sizes are small, tobacco products are more affordable for youth and low-income populations to buy. In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Unfortunately, cheap prices for tobacco products are most available in low-income communities of color and communities which have high proportions of school-aged youth. Nearly 1 in 4 (23%) of male high school seniors smoke cigars³ and are disproportionately used by black high school students.⁴ Establishing a minimum price of \$8.00 and a minimum pack size requirement of 20 little cigars has been shown to be an effective strategy for reducing smoking rates among youth and low-income populations.⁵

¹ Giovino GA, Villanti AC, Mowery PD, et al. 2015. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tobacco Control*. 24 (1): 28-37.

² U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. *Pathways to Freedom: Winning the Fight Against Tobacco*. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

³ Robert Wood Johnson Foundation (RWJF), American Cancer Society Cancer Action Network (ACS CAN), Campaign for Tobacco-Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and American Lung Association. (2014, December). *Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 16 Years Later*. Available at tobaccofreekids.org/microsites/statereport2015/. Retrieved March 4, 2015.

⁴ U.S. Department of Health and Human Services (HHS). (2014). *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta, GA: HHS, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (OSH). Printed with corrections. January 2014.

⁵ White, Justin and David Boettiger. 2019. *Estimating the Effects of a Minimum Floor Price Law on Tobacco Use in Oakland, California*. Philip R. Lee Institute for Health Policy Studies, University of California, San Francisco.

Additionally, making pharmacies tobacco-free further reduces the density of tobacco retailers and establishes pharmacies as places of health. Very few independent pharmacies exist anymore and of those existing, almost all are tobacco-free. In other jurisdictions, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements.

Many other jurisdictions in Alameda County are also taking steps to strengthen their tobacco control regulations. Hayward should join Oakland, Fremont, Livermore and Unincorporated Alameda County to create a network of jurisdictions with strong tobacco retail ordinances. No city in the County should have to be the go-to place to get cheap flavored tobacco products.

Strengthening Hayward's existing Tobacco Retail Licensing law is crucial to preventing a new generation of smokers and preventing the added risks of COVID-19 on our communities. Thank you for putting the health of our youth and communities before tobacco industry profits and ensuring that all of Hayward's youth have the opportunity to lead healthy lives.

Sincerely,

A handwritten signature in black ink that reads "Andrea Schwab-Galindo". The signature is written in a cursive, flowing style.

Andrea Schwab-Galindo, MPH
Chief Executive Officer

From: van nguyen
Sent: Thursday, May 28, 2020 12:19 PM
To: CityClerk
Subject: 7-11 franchise owner

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear hayward city
I am van nguyen, 7-11 franchisee , please don't ban all the flavors of tobacco sine we have been lower customers and it will be hurt my business a lot, please help us
thank you very much
best regards
Van nguyen

LETTER TO ELECTED OFFICIALS

Members of the City of Hayward Planning Commission,

As a business operator in Hayward, I'm very disappointed to learn that the Planning Commission is considering a broad ban on all flavored tobacco products, include menthol cigarettes, flavored cigars, and flavored smokeless tobacco.

We take the responsibility of keeping all tobacco products out of kids' hands seriously, but addressing the youth vaping epidemic should not lead local governments to overextend to other tobacco products. I ask that you remove traditional flavored tobacco products, like menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco, from the proposal because a ban on these products would only create other problems.

Banning the sale of traditional flavored tobacco products could shift sales of these products from law-abiding retailers to potentially illegal sources who don't check IDs. By potentially giving way to an illicit market, a menthol cigarette ban and ban on other flavored traditional tobacco products could have devastating effects in our community. Retailers are the first line of defense when it comes to preventing kids from purchasing tobacco products.

If the proposal is not amended to remove traditional flavored tobacco products, adult customers will drive just outside of town to buy their preferred products, and will also purchase gasoline, grocery items and beverages while there. Our store depends on these sales, especially during these economically uncertain and difficult times.

We pay taxes, create jobs, and support the local economy. This broad ban is unnecessary and goes too far as it would not only hurt our business, but it could also have devastating effects in our community.

I respectfully ask that you do not overextend to other tobacco products, and ask instead that you remove traditional flavored tobacco products – menthol cigarettes and flavored smokeless tobacco, cigars, and pipe tobacco – from the proposal. This issue is critical to our community and businesses across Hayward. Thank you for your consideration.

Sincerely,

Bhupinder Singh Parmar

Mission BP 76

28590 Mission Blvd.

Hayward, CA

94544

From: Jagjeet Singh
Sent: Thursday, May 28, 2020 12:45 PM
To: CityClerk
Subject: Menthol Tobacco Ban
Attachments: Hayward Tobaccolssues Retail Letter Draft.pdf

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hi Our Business is Mission Chevron @ 29900 Mission Blvd.

LETTER TO ELECTED OFFICIALS

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